



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317324-23

#### Development

Restoration of lands for agricultural gain through importing and depositing of inert material comprising natural minerals of clay, silt, sand, gravel or stone. NIS lodged with application.

#### Location

Painestown, Beauparc, Navan, Co. Meath

#### Planning Authority

Meath County Council

#### Planning Authority Reg. Ref.

22537

#### Applicant(s)

Clement Booth.

#### Type of Application

Planning Permission.

#### Planning Authority Decision

Grant Permission.

#### Type of Appeal

Third Party

#### Appellant(s)

Peter Sweetman & Wild Ireland  
Defence  
The Windmill Group

#### Observer(s)

No Observers.

**Date of Site Inspection**

21<sup>st</sup> of June 2024.

**Inspector**

Elaine Sullivan

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Appendix 1 – AA Screening Determination Template

Appendix 2 – Form 1: EIA Pre-Screening

Appendix 3 – EIA – Screening Determination

## **1.0 Site Location and Description**

- 1.1. The subject site is located in the rural townland of Painestown, Co. Meath and is approximately 12km to the northeast of Navan town centre. It comprises agricultural land and extends to an area of 8.03 hectares. The site forms part of a wider agricultural land holding with a combined area of 34.38 hectares. A laneway bisects the landholding in a north-south direction and the areas subject to the development form pockets of land to the east and west of the lane and at the northern and southern extents of the overall landholding. The subject site and the surrounding land uses are agricultural in nature with improved agricultural grassland as the dominant habitat in the area. To the south, the site is bounded by the L1013 and to the west the site is bounded by the local road known as Windmill Road which connects the L1013 with the L1600 to the north.
- 1.2. There are access points to the site from the L1013 and from Windmill Road. Access to the proposed development would be from an amended entrance on Windmill Road. To the north of the site is the Dawn Meats Processing Plant, which is also accessed from Windmill Road. There is a commercial plant nursery to the south of the site and on the opposite side of the L1013. Additional development in proximity to the site comprises dispersed one-off houses along the local roads and agricultural yards.
- 1.3. The site generally slopes from north to south. Within the site boundary the topography is undulating in nature with the levels rising and falling across the site. The site is drained by watercourses crossing the site which flow to the Roughgrange Stream, approximately 385 meters to the south of the site. The Roughgrange Stream flows east and then north where it outfalls to the river Boyne at Roughgrange.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for development on a site of 8.03 hectares that would comprise the infilling of agricultural land with inert soil and stones for the purpose of agricultural benefit. The area to be infilled forms part of a wider agricultural site of c. 34.38 hectares. It is proposed to import approximately 61,000 m<sup>3</sup> (c. 100,000 tonnes) of inert soil and stones to infill the land over a 5-year period.

- 2.2. The fill materials will be used for re-contouring and land reclamation purposes. Following the importation of the materials, topsoil would be spread on top of the fill and the lands would be reseeded.
- 2.3. The initial development proposal provided access to the site via the applicant's private lane from the L-1013 to the south of the site. During the further information (FI) stage of the application, the applicant was requested to demonstrate that sightlines of 160m in both directions could be provided along the public road. In response, the applicant revised the development proposal to provide a new access from Windmill Road to the east of the site. The PA considered that the revision constituted significant further information. Additional public notices were required, and a second public consultation period was provided in accordance with the statutory requirements.
- 2.4. A Natura Impact Statement and an Environmental Impact Assessment Screening Report were submitted with the application.

### 3.0 Planning Authority Decision

#### 3.1. Decision

- 3.1.1. The Planning Authority (PA) granted planning permission for the development subject to 16 planning conditions which were mainly standard in nature for a development proposal of this type.
- 3.1.2. Condition No. 6 notes that additional regulation is required for the development and states the following,

*The importation of material from outside of the site means that the activity will require authorisation under the Waste Management (Facility Permit and Registration) Regulations Statutory Instrument S.I. 821 of 2007 as amended. No material can be imported to the site until the requisite authorisation is in place. The applicant shall liaise with the environment section, Meath County Council to ensure compliance with the aforementioned regulations.*

**Reason:** *in the interest of environmental protection and sustainable development. (Environment).*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The decision of the PA was informed by two reports from the Planning Officer (PO). The first report dated the 15<sup>th</sup> of June 2022 recommended that further information (FI) was requested. The second report, dated the 25<sup>th</sup> of May 2023, assessed the response to FI and recommended a grant of permission.

The first report of the PO includes the following,

- The site is within the 'Central Lowlands', Landscape Character area which is of 'High Landscape Character Value' and of 'Moderate Landscape Sensitivity'. There are no protected structures or recorded monuments on the site and there are no protected views in the general area or across the site.
- The principle of the development is generally acceptable for the agricultural land.
- The PO noted that the development is categorised as a class of development under Class 11(b) of Part 2, Schedule 5 of the Planning and Development Regulations. However, the development would be sub-threshold for mandatory EIA. The development was assessed for sub-threshold EIA under the provisions of Schedule 7 of the Planning and Development Regulations and the PO determined that an EIAR was not required.
- The PO noted the comments from the Transportation Department and recommended that further information was requested regarding the provision of adequate sightlines at the site entrance. The applicant was also requested to respond to issues raised by third party submissions.

The second report of the PO assessed the information submitted by the applicant, which included amendments to the scheme to move the site access from the L-1013 to the south of the site to Windmill Lane to the east of the site.

The PA were satisfied that the applicant's response was adequate, and that amended access point would provide the required sightlines of 160m in both directions from a point 3m back from the public road. It was recommended that planning permission was granted.

### 3.2.2. Other Technical Reports

- Transportation Department – The first report dated the 10<sup>th</sup> of June 2022 stated that the PA were satisfied that the development would generate low levels of traffic and that it would not impact on the capacity of the road network. The proposed site access is on a road with an 80kmph speed limit which would require sightlines of 160m in both directions. No sightlines were shown, and it was recommended that the applicant was requested to demonstrate how they can be achieved. The second report dated the 27<sup>th</sup> of March 2023 noted that the applicant had amended the location of the site access and had demonstrated unobstructed sightlines from the revised access to the east of the site. The report recommended that planning conditions be attached should permission be granted.
- Water Services – The proposed development broadly meets the requirements of the Water Services Section regarding the orderly collection, treatment and disposal of surface water.

### 3.3. Prescribed Bodies

- EPA – The response from the EPA noted that, based on the planning documentation, the proposed development does not appear to require a licence from the EPA under the EPA Act 1992 (as amended) or the Waste Management Act 1996 (as amended). Therefore, observations have not been provided on whether EIA is required for the proposed development.
- Uisce Éireann – No objection.

### 3.4. Third Party Observations

The PA received 20 third party submissions during the initial public consultation phase. The following issues were raised by third parties,

- Land in the ownership of the applicant is outside of the blue line,



- The land is of good agricultural quality and does not need to be restored,
- The development equates to a commercial dump,
- The volume and type of traffic is unsuitable for the road network, which already has a lot of HGV traffic from nearby developments such as Dawn Meats and Panda Waste,
- Noise, dust and odour will impact on residential amenity,
- Potential impacts on nearby watercourses, i.e. the Boyne and Rough Grange rivers,
- Changing levels in the land could result in flooding – there has already been flooding outside the applicant's property.
- Queries as to how will the deposit material would be monitored.
- There is a history of unauthorised development and water pollution which has been brought to the attention of the PA and the EPA, (Enforcement case No. UD17075).
- Risk to water supply in the area through contamination of ground or surface water.
- Properties will be devalued by the development.
- It would be a threat to natural heritage and the environment.
- An archaeological survey was not carried out.
- The development would have a negative visual impact.

A further 23 submissions were received by the PA further to the amendments made to the development under FI. The issues raised in the submissions were generally like those raised in the initial public consultation phase. The following additional issues were raised,

- The revised access is unsuitable.
- Windmill Road is much narrower than the L-1013

- Windmill Road already has many HGVs travelling to and from Dawn Meats. Additional HGVs would exacerbate the traffic levels and cause a traffic hazard.
- There is a GAA club at the bottom of Windmill Road which generates a lot of pedestrian and cyclist movements to and from the club. This would conflict with HGVs from the site.
- The change of access warrants a new application.
- The access proposed on Windmill Road is just 30m from the neighbouring property. To achieve adequate sightlines the removal or setting back of hedgerows
- The proposed new access on Windmill Road would necessitate the removal of a hedgerow outside of the applicant's ownership.
- Landfilling on lands which are crossed by power lines could result in a hazard.
- The Automatic Traffic Counter was in a spot / on a bend where traffic would be forced to slow down leading to unrealistic traffic conditions.
- Lack of details in the application regarding management of surface water run-off.
- There is already a dump at Knockharley.
- Concerns regarding stockpiling at the entrance to the site during bad weather.
- The NIS and the EIA Screening report were inadequate.

## 4.0 Planning History

No recent planning history was found for the subject site.

Recent planning history on nearby sites,

To the north of the site at Dawn Meats -

**ABP-318864-24** - Section 5 Referral to determine whether the "installation of a 7-hectare sub surface irrigation to facilitate the dispersal of treated effluent from the

on-site wastewater treatment plant. The system is installed with an irrigation pipework on the two fields which are separated by 400mm. The design of the system will be divided into seven zones which will be irrigated via an automated system" is or is not development and is or is not exempted development. This referral is yet to be decided by the Board.

**ABP- 313586-22**, (PA Ref. 21424) – A decision is pending on an appeal to the Board regarding development that consists of an extension to existing wastewater treatment plant (WWTP) where the works include: (a) Demolition of an existing storage building (17.50m<sup>2</sup>) and construction of a new single-storey industrial type building to enclose the DAF unit granted planning permission under planning reference LB180300 and to provide new enclosed storage and control rooms (total floor area 119m<sup>2</sup>) (b) Install a new sludge press at intake to WWTP, change aeration tank to anoxic tank, install 2 no. additional aeration tanks, alteration to perimeter berm to increase the footprint of WWTP, by 539m<sup>2</sup> to that granted planning permission under planning permission LB180300; (c) Treated wastewater rising main from the site of the proposed development to new discharge point at the River Boyne (distance 7.2km), where pipeline shall be laid along a section of Windmill Road, the L1013, Yellow Furze Road, the L1600 (Boyne Road) and the unnamed local road leading from the L1600 to the private lands abutting the River Boyne at the discharge point. The planning application is accompanied by an Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS). This application relates to a development which is for the purposes of an activity which holds an Industrial Emissions Licence (Reg No. P0811-02). Significant further information/revised plans submitted on this application.

**ABP-317568-23**, (PA Ref. 23458) – A decision is pending on an appeal before the Board regarding development consisting of an upgrade of the existing Gorman to Platin 110 kV overhead line (OHL) (19.76 km long and comprising 109 no. supporting structures between the existing Gorman substation in the townland of Causetown, Co. Meath and the existing Platin 110kV substation in the townland of Platin, Co. Meath).

## 5.0 Policy Context

### 5.1. Development Plan

The operative Development Plan for the site is the **Meath County Development Plan 2021 – 2027**.

**Zoning** - The site is zoned 'RA – Rural Area'. The objective of which is, *'To protect and promote in a balanced way, the development of agriculture, forestry and sustainable rural-related enterprise, community facilities, biodiversity, the rural landscape, and the built and cultural heritage'*.

The proposed development, which is described as the *'restoration of land for the purposes of cultural gain through importing and depositing of inert materials comprising natural materials of clay, sand, gravel or stone'*, is not specifically listed as a use or development which is 'Permitted' or 'Open for Consideration' within the RA zoning objective. It is notable that 'Extractive Industry / Quarrying' is listed as a 'Permitted Use' under the RA zoning.

Section 11.14.2 of the Development Plan states that, *'Any use not listed in the permissible or open for consideration categories is deemed not to be acceptable in principle. Such uses will be considered on their individual merits and will only be permitted if they enhance, complement, are ancillary to, or neutral to the zoning objective'*.

#### Chapter 6 – Infrastructure Strategy

Flood Risk – INF OBJ 20 - To implement the Planning System and Flood Risk Management-Guidelines for Planning Authorities (DoEHLG/OPW 2009) or any updated guidelines. A site-specific Flood Risk Assessment should be submitted where appropriate.

#### 6.17 – Waste Management

The Development Plan states that, by virtue of the Waste Management Acts, 1996-2013, the objectives of the Eastern Midlands Region Waste Management Plan- Eastern Midlands Regional Waste Management Office- 2015 -2021 are deemed to be included in the Development Plan. Where the objectives of the Development Plan

and the Waste Management Plan are in conflict, the objectives in the Waste Management Plan shall prevail.

6.17.3.1 – Circular Economy - The circular economy is one where materials remain in use at their highest value for the longest period of time and are then up cycled/recycled or re-used, thereby minimising the volume of residual waste.

16.17.3.6 – Disposal - The Knockharley regional landfill, near Kentstown, accessed off the N2 National Primary Route is a privately operated landfill facility which has capacity beyond the lifetime of the Development Plan. A contingency capacity for landfill is required to facilitate emergency situations.

16.17.3.7 – Construction and Demolition Waste - The Eastern Midlands Region Waste Management Plan 2015-2021 states that Construction and Demolition Waste (C&D) consists of all wastes that arise from C&D activities which include excavated soil from contaminated sites, however the definition is one that is being continuously subjected to change. The Waste Management Plan recognises that at many of these sites it is deposition rather than improvement that is the primary activity and this can have complications for habitats. Given the move away from landfill which is a significant outlet for C&D waste, alternative recovery options will be required to facilitate C&D Waste in the future years.

INF POL 61 - To facilitate the implementation of National Waste Legislation, National and Regional Waste Management Policy and the circular economy.

INF POL 70 - To encourage the recycling of construction and demolition waste and the reuse of aggregate and other materials in future construction projects.

INF OBJ 54 - To facilitate the transition from a waste management economy to a green circular economy to enhance employment opportunities and increase the value recovery and recirculation of resources.

## Chapter 9 – Rural Development Strategy

RD POL 12 - To facilitate the development of agriculture while ensuring that natural waters, wildlife habitats and conservation areas are protected from pollution.

## Chapter 11 – Implementation

11.6.10 – Land Reclamation - The Council recognises the need for land reclamation for the improvement of agricultural lands. It is also of note that in recent years

significant pressure has come on the Council to facilitate the provision of waste recovery sites for soil and stone.

DM POL 23: To require that all land reclamation developments which include the importation of any material onto site have the requisite waste authorisation in place in accordance with the stipulations of the Waste Management Act 1996.

DM OBJ 65: All applications for land reclamation / soil and stone recovery shall comprehensively address the following criteria as part of a pre-application discussion and/or planning application proposal:

- Impact on groundwater, surface water and important aquifers and compliance with the objectives of the Water Framework Directive (Refer to chapter 6 for further information on Water Framework Directive);
- Impact on Natura 2000 sites, NHAs, sites of ecological importance, geological or geomorphological heritage features; (Refer to Chapter 8 Cultural Heritage for further information);
- Details of the overall and annual quantities of material to be brought on to the site in tonnes having regard to Mandatory EIA Thresholds set out in Schedule 5 Part 2 of the Planning and Development Regulations 2001 as amended;
- Details of the nature of material including EWC or LoW codes for all waste materials proposed for acceptance at the site;
- Justification for agricultural improvement and detail of proposed agricultural use;
- Transportation impacts with particular reference to details of all haul routes, Load size, Trip movements (A special contribution may be attached to a grant of permission in accordance with Section 48 of the Planning and Development Act, as amended);
- Details of site services including wheel wash, site office, security welfare facilities quarantine areas and weighbridges;
- Phasing programme for reclamation with accurate drawings showing the development in layout and sections through the phases to completion;

- Impact on existing local communities with regard to but not limited to noise, dust, emissions.

## **National Planning Policy**

- **Climate Action Plan 2024**
- **A Waste Action Plan for a Circular Economy** – Ireland’s National Waste Policy 2020-2025
- **National Planning Framework** – Project Ireland 2020 (NPF)

The applicant references **NPO 23, 53 and 56** and **Section 9.2** in their response to the appeal.

**NPO 23** - Facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector, together with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.

**NPO 53** - Support the circular and bio economy including in particular through greater efficiency in land management, greater use of renewable resources and by reducing the rate of land use change from urban sprawl and new development.

**NPO 56** - Sustainably manage waste generation, invest in different types of waste treatment and support circular economy principles, prioritising prevention, reuse, recycling and recovery, to support a healthy environment, economy and society.

**Section 9.2** relates to Resource Efficiency and Transition to a Low Carbon Economy.

- **Eastern and Midland Regional and Spatial Economic Strategy**,
- **Eastern Midland Waste Management Plan 2015-2021** – Section 5.3 is referenced by the applicant with regard to the Strategic Objectives relating to the transition from a waste management economy to a green circular

economy, and the promotion of sustainable waste management treatment in keeping with the waste hierarchy.

## 5.2. Natural Heritage Designations

5.2.1. No designations apply to the subject site. The site is not within or directly adjoining any Natura 2000 site. The closest designated sites are the,

- River Boyne and River Blackwater SAC and,
- River Boyne and River Blackwater SPA.

Both sites are approximately 3.5km to the north of the subject site.

## 5.3. EIA Screening

5.3.1. An Environmental Assessment Screening Report was submitted with the application based on the provision that the proposed development is a sub-threshold development listed under Class 11(b) of Part 2, Schedule 5 of the Planning and Development Regulations 2001 (as amended). Class 11(b) relates to – *‘Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of (Schedule 5)’*.

5.3.2. The proposed development was determined to be sub-threshold for the purposes of Part 10 of the Planning and Development Regulations 2001 (as amended), i.e., it is not a class of activity for which an EIA is mandatory as prescribed by Part 1 of Schedule 5 and it is also below the thresholds stipulated in class 11(b) of Part 2 of Schedule 5. A screening report was prepared to assess and determine whether the development would be likely to have significant effects on the environment for the purposes of Class 15 of Part 2 of Schedule 5 of the Regulations, which relates to *‘Any project listed in this part which does not exceed a quantity, area or other limits specified in this part in respect of the relevant class of development but which would be likely to have significant effects on the environment having regard to the criteria set out in schedule 7’*. The assessment was prepared in accordance with Schedule 7 of the Regulations and the information required under schedule 7A was included in the report.



- 5.3.3. I have carried out an EIA screening determination on the project which is set out in Appendix 2 of this report.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

Two appeals have been lodged against the PA's decision to grant permission for the development. Similar issues were raised in both appeals and in the interests of clarity and completeness I have grouped the main points of both appeals under the headings below.

- The appellant includes details on previous planning history for the applicant's lands dating from 1996. The historic applications relate to the amendment of and retention of three access points to the applicant's lands and it is submitted that the permissions were not complied with. The appellant submits that non-compliance with previous planning permissions raises a question as to the way the proposed development would be carried out and the lack of adequate planning conditions to monitor the development adds to the concern.
- Moving the access point during the FI stage of the application was of such significance that it warranted assessment under a separate planning application.
- The application states that the purpose of the development is to improve the land for agricultural use. However, the appellant submits that the land in the area is successfully farmed and is known to be of good quality. It is questioned as to how the land is to be improved by raising the levels.
- In terms of how the development would be regulated, the appellant is of the opinion that the conditions attached to the PA's decision would not provide sufficient monitoring and regulation for the development to ensure that the receiving environment is not negatively impacted.
- There is no condition to monitor the type and quality of waste to be deposited on the site.

- Regarding traffic in the area, the appellant notes that Windmill Road is the main route to the local GAA club and is of the opinion that traffic counts carried out when volumes were lower due to a break in GAA activities after the October bank holiday. The road network in the area has a lot of HGV traffic to and from Dawn Meats which results in damage to the road infrastructure. Additional HGV movements would exacerbate this situation and would impact on pedestrian and cyclist safety.
- Concerns were raised in the appeal regarding the potential impact of the development resulting from dust, airborne pollution and noise. Despite Condition No. 3 restricting the level of dust emissions to 350mg/sq/day, there is no requirement for the applicant to prepare a dust management plan or to demonstrate how the dust will be managed. Likewise, Condition No. 12, requires that noise from the development shall not exceed 55dB(A) at noise sensitive sites and that a noise survey be conducted annually and submitted to the PA. The applicant questions the effectiveness of this condition for noise management on an on-going basis.
- Condition No. 2 requires that a wheel wash is installed at the entrance to the development prior to commencement of development, with details to be agreed with the PA. The appellant submits that the condition does not address how grey water from the wheel wash will be disposed of or how pollution from oil contaminated fluids will be contained. Contamination of surface or groundwater is a concern given the number of private wells in the area and for the local watercourses.
- Condition No. 3 restricts the maximum weight of materials to be deposited on the site to 100,000 tonnes. However, it is unclear as to how this will be monitored as the condition does not require a weighbridge.
- The grounds of appeal question whether the impact of raising the levels of the land has been considered in terms of implications for flooding / flood risk to the surrounding lands. The appellant states that the L1013 has been known to flood on occasion and photographs of flood events on the road were submitted with the appeal.

- The appellant is also of the opinion that the decision of the PA and the conditions attached do not contain sufficient controls to adequately regulate the development. A bond was not required to ensure satisfactory completion or to prevent environmental damage. The appellant is of the opinion that a bond of €160,000 would be reasonable, although no basis for the calculation of this amount was provided. Additional areas/details which the appellant found lacking include,
- The final height of the infill was not determined.
- A landscape architect was not required to oversee the project and to sign off on an agreed landscape plan was not required.
- A detailed Soils and Materials / By-Product Management Plan was not requested by the PA.
- An independent Environmental Engineer should be required to oversee the development.
- A condition was not applied to compel the applicant to carry out the undergrounding of the overhead cables on the site.
- The appellant puts forward that the development is premature as the Knockharley Waste facility is not yet at capacity and should be used instead of this green site.
- The grounds of appeal submit that the Natura Impact Statement (NIS) submitted with the appeal is inadequate and fails to address the salient and legally required issues.
- The appellant submits that the NIS was not prepared under current legislation or EU guidelines. The NIS states that it was prepared '*in accordance with current guidance (DoEHLG, 2009, Revised February 2010)*', the applicant puts forward that current guidance is '*European Commission, Directorate-General for Environment, Managing Natura 2000 sites - The provisions of Article 6 of the 'Habitats' Directive 9243 EEC, Publications Office 2001, and legal judgements CJEU 258/11, 164/17 and 323/17.*

- The appellant considers the development to be within the Zone of Influence of the River Boyne and River Blackwater SAC (002299) and that the PA failed to carry out an adequate Appropriate Assessment as required by the Directive.
- Reference is made to court decision, CJEU Case 258/11, which states that the assessment carried out under Article 6(3) of the Habitats Directive... 'cannot have lacunae, and must contain complete, precise and definitive findings... capable of removing all reasonable doubt...';.
- The appellant notes that there is a hydrological connection between the subject site and the River Boyne and River Blackwater SAC, and that otter have been sighted on the laneway, which are listed as a qualifying interest (QI) for the SAC.
- The appellant argues that the proposed development represents agricultural intensification. Agricultural intensification is listed as a threat to the SAC in terms of run-off. The appellant contends that there would be a cumulative effect with the Dawn Meats application prior to mitigation.
- There is no Construction and Environmental Management Plan submitted with the application. Mitigation measures listed in the NIS would not mitigate risk to the SAC as they are not precise or definitive.
- The appeal references court case C-301/22 which relates to the Water Framework Directive and has since been decided by the European Court of Justice.

## 6.2. Applicant Response

A response from the applicant was received on the 20<sup>th</sup> of July 2023 and includes the following,

- Regarding land improvement, the applicant refers to the Agricultural Report submitted with the application which states that the development would 'greatly improve agricultural output'. The response also highlights that NPO 23 of the National Planning Framework (NPF) and Development Plan Policy RD POL 12 includes support for agriculture.

- The development relates to materials recovery as opposed to disposal, which is submitted as supporting the circular economy principles. In support of materials recovery, the applicant references NPO 53, 56 and Section 9.2 of the NPF, the Waste Action Plan for a Circular Economy 2020-2025, Section 5.3 of the Eastern-Midlands Region Waste Management Plan 2015-2021 and Development Plan Policy INF POL 61 and objective INF OBJ 54.
- It is argued in the response that the development is in accordance with the RA zoning objective for the site.
- Regarding issues raised about traffic, the applicant states that a Technical Note on Traffic was submitted with FI and does not indicate any concerns in respect of sightlines or road capacity. Given the findings of the traffic survey, which indicated that traffic levels are low and the limited amount of traffic to be generated from the development, the applicant considers it unlikely that the carrying out of traffic counts during the GAA season would materially effect its conclusions.
- The applicant submits that the development would not have a negative effect on the landscape and would be screened from view by the existing mature hedgerows.
- Regarding issues raised about pollution from contaminated materials, the applicant states that the proposed development is an activity that requires a Waste Facility Permit and would be subject to the conditions of the permit. All incoming materials would be pre-approved and subject to Waste Acceptance Criteria (WAC) prior to acceptance on site. No materials with invasive species would be accepted.
- Issues raised about noise and dust were addressed in the EIA Screening Report, which determined that the development would not have likely significant effects on the environment. Section 5.1.1 of the report sets out the measures for managing dust on the site, and states that the facility will not operate in high winds and that roads and site access will be sprayed with water during periods of dry weather. Operations on the site will be restricted to the hours stated in the application which will minimise noise. Traffic to and

from the site will be limited and the use of the excavator on the site will be periodic.

- The applicant notes that the OPW flood maps, ([www.floodinfo.ie](http://www.floodinfo.ie)) do not indicate any sources of flood risk affecting the site or adjoining lands. The nearest Past Flood events in the vicinity are shown on the maps as approximately 3.7km to the north-west of the proposed development. It is noted that flood risk was not raised by the PA in their assessment.
- Regarding the procedural issues raised, the applicant confirms that the development is 'stand-alone' and not part of a larger development.; a site selection process was not required; the conditions attached to the decision of the PA are appropriate and should the Board wish to attach different conditions, it is within their remit. The PA considered it appropriate to deal with the amendments to the scheme through FI.
- The NIS concludes that the that the proposed development would not adversely affect the integrity of any European sites. Section 7 all of the NIS states that with the implementation all of the mitigation measures there will be no deterioration in water quality or impacts on any designated habitat or species dependent on these designated habitats. The EIA screening report concludes that the proposed development would not have likely significant effects on the environment.

### **6.3. Planning Authority Response**

A response was received from the PA on the 19<sup>th</sup> of July 2023. The PA noted the content of the appeals and are satisfied that all issues were dealt with in the report of the Planning Officer. The PA request that the Board uphold the decision made.

### **6.4. Observations**

- No observations.

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Procedural Issues
- Residential Amenity
- Traffic
- Drainage

### 7.2. Principle of Development

7.2.1. The subject site is outside of a settlement boundary and is zoned RA – Rural Area. The objective of the RA zoning is, *‘To protect and promote in a balanced way, the development of agriculture, forestry and sustainable rural-related enterprise, community facilities, biodiversity, the rural landscape, and the built and cultural heritage’*. Land restoration or land reclamation is not specifically listed as a permitted use or as one that is open for consideration under the RA zoning objective. Development Plan Guidance in Section 11.14.2 states that, *‘Uses other than the primary use for which an area is zoned may be permitted provided the use is not in conflict with the zoning objective or any other policies and objectives in the Plan. Any use not listed in the permissible or open for consideration categories is deemed not to be acceptable in principle. Such uses will be considered on their individual merits and will only be permitted if they enhance, complement, are ancillary to, or neutral to the zoning objective’*. Additional guidance on the RA zoning objective states that, *‘The primary objective is to protect and promote the value and future sustainability of rural areas’*. Although the proposed development is not specifically listed under the permitted or open for consideration uses, I am satisfied that it can be assessed on its merits the RA zoning objective. I note that Extractive Industry/Quarrying is listed as a permissible use. As land restoration is an activity

associated with the extractive industries, I am satisfied that the proposed development can be assessed on its merits.

- 7.2.2. However, I would question whether the description of the development as 'land restoration' is the correct term for the activity. From the site visit, the land appeared to be in agricultural use with no visible evidence of excavation or intervention and the application describes the existing and future use of the land as 'livestock grazing'. Due to the undulating nature of the site, its existing and proposed use as an agricultural field, I consider that 'infilling' would be a more accurate description of the development. Notwithstanding this, I am satisfied that infilling of agricultural land is an activity that is compatible with the RA zoning for the site and as such, can be assessed on its merits.

#### Justification

- 7.2.3. Chapter 11 of the Development Plan contains policies, objectives and guidance in relation to land reclamation. DM OBJ 65 provides a list of criteria that should be addressed as part of any proposal for land reclamation / soil and stone recovery. The criteria include a requirement to provide justification for the agricultural improvement and detail of proposed agricultural use. The applicant has submitted a document called 'Agricultural Report for Proposed Land Infill Project' as justification for the development. The document is brief, unsigned and marked with a 'Draft' watermark on all pages. As no other reports or justification has been provided, I will accept this report as its presented, as a final document. The report notes that during the site visit, 'surface water was tending to lie in the hollow areas of the fields'. The date of the site visit and the weather conditions on that date are not stated. The report also notes that the *'proposal is to import inert soil and stone, which will raise the hollow areas, and grade back into the general field level'*. Expected results are listed as general improvement of farming productivity of the land. This would result from, *'Raising the lower lying areas all of these fields, combined with soil ripping should improve drainage at a localized level. This work will improve productivity of crops and if livestock are grazing, it will help to reduce any potential for poaching ground and also reduce potential disease pressures, e.g. liver fluke'*. It is also noted in the report that the work would help to reduce water running off too quickly during heavy rainfall by improving the soil's capacity to attenuate direct rainfall.



- 7.2.4. Although the report does not contain any detailed justification to support the infilling of the site, I accept that the reprofiling of lower areas of the site will allow for improved drainage and ease of use for livestock grazing, which is the stated end use.
- 7.2.5. The importation of material from outside of the site means that the activity will require authorisation under the Waste Management (Facility Permit and Registration) Regulations Statutory Instrument S.I. 821 of 2007 as amended.

### **7.3. Procedural issues**

- 7.3.1. The grounds of appeal raised issues which relate to historical planning compliance and alleged unauthorised development. Planning enforcement issues are not within the remit of the Board and are not matters for the Board to adjudicate on. Therefore, they will not form part of this appeal.
- 7.3.2. Third parties are also of the opinion that changes made to the development proposal during the further information (FI) stage should have been subject to a separate planning application. It is the responsibility of the PA to determine whether the changes made during FI could be assessed as part of the overall planning application. Documents provided as part of the appeal show that the PA determined that the further information was significant additional data which required the publication of a notice by the applicant under Section 34(8) of the Planning and Development Acts (as amended). On foot of the second public notice, 23 third party submissions were received by the PA. On this basis, I am satisfied that third party rights were not prejudiced.

### **7.4. Residential Amenity**

- 7.4.1. The grounds of appeal raised concerns that related to the potential for the development to impact on residential amenity in terms of nuisance from noise, dust and water contamination. These issues are addressed by the applicant in their response to FI and in the Environmental Impact Assessment Screening Report accompanying the application.

#### Noise

- 7.4.2. To limit the impact of noise the applicant proposed limiting the infilling operations to regular daytime hours and from 7:30 to 1800 hours Monday to Friday, and from 7:30 to 1400 hours on Saturdays. I note to the Board that the PA considered the hours of 08.00 to 18.00 Monday to Friday and 08.00 to 14.00 on Saturdays to be more appropriate and attached a planning condition to this end.
- 7.4.3. Noise emissions will be limited to haulage trucks arriving and leaving the facility and the operation of on-site machinery such as bulldozers and/or excavators. Traffic figures provided by the applicant estimate that the development will generate a maximum of 8-10 truck movements per day. The decision of the PA attached conditions to restrict the hours of operation of the site, (from 0800 to 1800 Monday to Friday and from 0800 to 1400 on Saturdays) and to regulate noise from the site, (noise levels shall not exceed 55dB(A)). I consider the houses backing onto the site from Windmill Road and the L1013 to be the most sensitive receptors for noise and general nuisance from activities as they are the closest in proximity.
- 7.4.4. Whilst the development will generate additional noise from HGVs and heavy machinery, the vehicular movements to and from the site would be low and vehicular movements within the site would be restricted to daytime hours. Given the volume of materials proposed for importation, it is likely that the infilling activities would be directed towards specific areas of the site at different times, which would limit the ongoing noise exposure to the adjoining or nearby houses. I am satisfied that the levels of noise from the site would be mitigated through the attachment of conditions which limit the hours of operation of the site, and which specify maximum noise levels at the sensitive receptors.

#### Dust

- 7.4.5. The applicant states that precautions will be implemented on the site to limit dust levels from the site. Mitigation measures include ceasing operations during high winds to minimise dust, and dust suppression measures such as spraying working areas and haul roads within the site with clean water during periods of dry weather; or if dust is being generated to such an extent to reasonably present a risk or a nuisance to neighbouring properties. The decision of the planning authority attached a condition which requires that the applicant install a wheel wash at the proposed facility prior to the commencement of development. Whilst the applicant may

endeavour to limit operations during times of high wind this may prove difficult to regulate. I consider the installation of a wheel wash at the entrance of the site to be a reasonable response to limiting dust from the site to the surrounding road network. The applicant states that all material imported onto the site will be immediately spread and compacted. This would prevent dust from mounds of material stored on the site. It would also be reasonable to require dust suppression measures to be employed within the site, such as damping down of internal roads and the correct storage of topsoil and/or materials on the site. These measures would be required as part of a Construction Environmental Management Plan (CEMP) which is a standard planning requirement for large construction projects or smaller projects that may be environmentally sensitive. Although the development will be subject to a Waste Permit from the PA, a CEMP is useful in setting out how a project will be managed to minimise its impacts on the environment and the local community. Should the Board be minded to grant permission for the development, I recommend that a planning condition is attached requiring a detailed CEMP, to include all site management and mitigation measures to be provided by the applicant and agreed writing with the PA.

#### Water

- 7.4.6. I am satisfied that the nature of the development for the importation of inert soil and stone would not result in the contamination of ground water. The content of the materials to be imported will be regulated through a Waste Permit permitted under the Waste Management (Facility Permit and Registration) Regulations S.I. 821 of 2007 (as amended), which will be issued and monitored by the PA. This will ensure that only inert soil and stone will be deposited on the site. Measures to prevent pollution from surface water runoff from entering the watercourses on the site are set out in the NIS accompanying the application and in the Environmental Impact Assessment Screening Report. The measures include the implementation of good practice site management regarding the storage and use of hydrocarbons, the requirement for spill kits on the site, the installation of a buffer zone and silt traps around any watercourses on the site. I am satisfied that the nature of the proposed development for the infill of inert materials will not result in impacts which would result in the contamination of ground or surface water in the area subject to compliance with the mitigation measures specified in the NIS and the application. I

recommend that these or similar conditions be attached should the Board grant permission for the development.

#### Visual Impact

- 7.4.7. The grounds of appeal raised the issue of the visual impact of the development. The subject site and the surrounding lands are agricultural in nature and character with some industrial uses dispersed throughout the area such as the Dawn Meats processing factory directly to the north of the site. In the Landscape Character Assessment (LCA) for the Development Plan, the site is in the Central Lowlands area, which is classified as a 'High Value' landscape type with a 'Moderate Sensitivity'. There are no protected views or prospects across the site. Development Plan Map 8.6 shows Protected View, (Ref. 35), on Windmill Road to the north of the site. The location of the view is described in the Development Plan as '*Country Road between Beauparc and Painestown*'. The direction of the protected view is north-west and it is described as, '*View to northwest across settled landscape with settlements and infrastructure brackets, (powerline, wind farm, roads visible). Many large woodland lots.*'. As the location of the view is to the north of the site, and the specified direction is away from the site, which is to the south-east of the viewpoint, the development will not impact on Protected View 35.
- 7.4.8. There would be some visual impact from the development during the operational stage. However, this would be temporary in nature and the parts of the site to be infilled would be seeded with grass and returned to agricultural use following completion of the development. The existing hedgerows and trees bounding the site would be retained and would restrict views of the site from the public area during the development phase. The appeal also submits that information on the height of the fill was not provided by the applicant. Drawings A882-DR-BCON-EN-007, 008 and 009 show the existing and proposed cross sections of the site and details the change in contour levels. I am satisfied that the proposed development would not result in any significant visual impact on the surrounding area by virtue of the nature of the development, which is temporary in nature and the proposed restoration of the land to agricultural use post development.

#### 7.4.9. Regulation

- 7.5. As noted above the proposed development would require a Waste Permit from the PA under the Waste Management (Facility Permit and Registration) Regulations S.I. 821 of 2007 (as amended). All Waste Permits issued under this legislation are recorded on the national database at the National Waste Collection Permit Office (NWCPO) and are publicly available on their website. This permit specifies the type and amount of materials to be accepted onto the site and also contains conditions which relate to the site operations and management. Conditions may also include a requirement for written procedures for waste inspection, waste handling, invasive species control and waste sampling.
- 7.5.1. In their FI response to third parties the applicant states that only inert materials will be accepted on the site with all materials to be pre-approved and subject to Waste Acceptance Criteria (WAC) which are specified by the EPA. The applicant also states that a topographical survey will be conducted annually to verify the volume filled and to determine the remaining capacity and that incoming volumes of material will be recorded and monitored regularly. In the interests of the public and development control, the applicant suggests having a complaint register to record any complaints regarding the works. I consider all of the applicant's suggestions to be a reasonable response to third party concerns regarding governance of the site and I recommend that they be included by condition should the Board grant permission for the development.

#### 7.6. **Traffic**

- 7.6.1. A report submitted with FI included information taken from an automatic traffic counter (ATC) which was placed at a location on Windmill Road, close to the northernmost of the two field gates and further from the L1013 junction. This location was chosen as vehicles were expected to be traveling at a higher speed along the road than at a point closer to the junction. A full set of results is provided in the response to FI – Appendix 3 – Technical Note on Roads and Traffic for RFI Response.
- 7.6.2. The ATC was left in place for seven days and the results showed that traffic movements were generally low and typically in the order of 366 vehicles per

weekday (Monday – Friday) with a 7-day average of 304 vehicles per day, (these figures are both 24-hour totals). This level of traffic was compared to the traffic counts carried out for the originally proposed site entrance on the L1013 to the west of the Windmill Lane junction, which were also carried out using an ATC over a 7-day period. The results of the L1013 counts found that the volume of traffic using the L1013 is typically in the order of 1,700 – 1,950 vehicles per weekday with an average (24-hour total) of 1,574 vehicles per day.

7.6.3. In terms of daytime hours, when the import activities would occur, the typical flow was found to be in the order of 100 vehicles per hour with commuter peak hour volumes of 139 vehicles at 08.00 – 09.00 and 156 vehicles at 17.00 – 18.00 (two-way totals). The text in the report states that the survey recorded only 1-2 HGVs per day. However, this figure appears to be incorrect when compared to the full list of results. HGV traffic is recorded in the result tables as OGV1 and OGV2. A rudimentary calculation of the results shown in the report indicate that northbound traffic counts show a weekday average (over 24 hours) of 34 HGVs per day and a weekend average of 10 HGVs per day. The results for southbound traffic show a weekday average of 30 HGV movements and a weekend average of 9 HGV movements. Overall, the percentage of current HGV movements on weekdays would represent an average of 17% of the total traffic movements on Windmill Lane on weekdays and 13% on weekends. I note to the Board that these figures are solely based on the results shown in the report and do not include any traffic or junction modelling.

7.6.4. Third party submissions raised concerns regarding the accuracy of the traffic counts. It was submitted that the survey was undertaken outside of the active GAA period and would not have included traffic movements along Windmill Road to and from Seneschalstown GAA club. Whilst the activities associated with the GAA club may have generated additional traffic movements along the road, the associated traffic would generally be in the evenings and weekends which would be outside of the operational hours for the development. Therefore, I am satisfied that the additional traffic generated by the GAA club would not have significantly altered the results of the survey, as they relate to the daytime movements of traffic surveyed, which is the most relevant to the proposal development in terms of traffic management and safety.

- 7.6.5. I have reviewed the results of the traffic counts carried out along Windmill Road and I agree with the conclusion that overall traffic movements along the road are low. The application states that the projected traffic movements from the development would be in the order of 8-10 truck movements per day. This figure is based on a worst-case scenario, (based on the importation of 20,000 tonnes of material per annum, (18 tonnes per load = 1,111 loads per annum) – based on 260-280 days haulage per year Mon-Friday and half day Saturday – this would equate to 4-5 loads in and 4-5 empty trucks out).
- 7.6.6. Given the existing levels of traffic and the low numbers of HGVs that would be generated by the development, I am satisfied that the additional traffic movements would not result in any significant increase in traffic levels along Windmill Road and / or along the L1013.
- 7.6.7. The layout of the access is shown on Drawing No. A882-DR-BCON-EN-002, Site Plan. The applicant has demonstrated that sightlines of 160m in each direction can be achieved from the proposed entrance on Windmill Road without setting back the hedge or drainage ditch and with minimal removal of existing hedging and just one tree. The gate would also be set back by 17m from the road edge to accommodate the largest type of haul truck. I have reviewed the details submitted and I am satisfied that the applicant can provide an access point that can safely accommodate HGVs pulling off the public road while awaiting entry to the site. I am also satisfied that sightlines of 160m in each direction from a point 3m back from the main road can be achieved, in accordance with TII document DN-GEO-03060 and as requested by the PA.
- 7.6.8. Having reviewed all the information at hand and having visited the site and the surrounding road network, I am satisfied that the proposed development would not result in a significant contribution to existing traffic levels in the area or to the existing traffic mix / levels of HGVs using the road, and that safe access and egress from the site can be provided.

## **7.7. Drainage**

- 7.7.1. The grounds of appeal raised concerns regarding the potential for the development to contribute to flood risk on the surrounding lands. Third party submissions included

photographs from 2015 which showed flooding on the L1013 to the south of the site. I have reviewed the Strategic Flood Risk Assessment of the Meath County Development Plan 2021-2027 and the OPW flood maps for the area, which are publicly available on their website, ([www.floodinfo.ie](http://www.floodinfo.ie)). The subject site is not located in an area that is designated as 'at risk from flooding' in any of the scenarios modelled in the SFRA or the OPW maps. There is no recorded history of previous flood events on the site or on the L1013 to the south of the site. No explanation is given as to what may have caused the flooding on the L1013 or if there has been flooding since.

- 7.7.2. As the site is not defined as 'at risk from flooding' a Flood Risk Assessment was not required for the application, and one was not requested by the PA. I note that the extent of permeable surface throughout the site would not change and that the levels across the site would be graded rather than providing any steep changes in level. As the subsoil throughout the site is deemed to have a low permeability, (as per the EIA Screening Report), the importation of soil and stones may improve the drainage in the fields. In consideration of the location of the site, outside of a flood risk area, the extent of the area to be reprofiled and no overall change to the amount of permeable surfaces within the site, I am satisfied that the development will not have a significant impact on the flood risk to the adjoining areas.

## **8.0 AA Screening**

- 8.1. As per Appendix 2 of this report, the proposed development was considered in accordance with the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in-combination with other plans or projects could have a significant effect on European Sites (River Boyne and River Blackwater SPA (Site Code 004232) and River Boyne and River Blackwater SAC (Site Code 002299)) in view of the site's Conservation Objectives, and Appropriate Assessment (Stage 2) is therefore required.
- 8.2. In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development would have a likely significant effect 'alone' on the qualifying interest,



Kingfisher (*Alcedo atthis*) of the River Boyne and River Blackwater SPA (Site Code 004232) and the qualifying interests of Salmon, Otter and River Lamprey of the River Boyne and River Blackwater SAC (Site Code 002299), as a result of the effects associated with the uncontrolled discharge of pollutants in surface waters. An appropriate assessment is required on the basis of the effects of the project 'alone'.

## **Stage 2 – Appropriate Assessment**

- 8.3. The following is an objective assessment of the implications of the proposal on the relevant Conservation Objectives (CO's) of the River Boyne and River Blackwater SAC and the River Boyne and River Blackwater SPA based on the scientific information provided by the applicant and taking into account expert opinion and submissions on nature conservation. It is based on an examination of all relevant documentation and submissions, analysis and evaluation of potential impacts, findings conclusions. A final determination will be made by the Board.
- 8.4. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects on site integrity are examined and evaluated for effectiveness. Possible in-combination effects were also considered. A full description of the proposed development and the potential impacts from the construction and operational phases are set out in Section 4.3 of the NIS.
- 8.5. Relevant European Sites:

In the absence of mitigation, the potential for significant effects could not be excluded for:

- River Boyne and River Blackwater SPA (SC 004232), and,
- River Boyne and River Blackwater SAC (SC 002299).

A description of the sites and their Conservation Objectives and Qualifying Interests/Special Conservation Interests, including relevant attributes and targets for these sites, are set out in Section 4.2 of the NIS. I have also reviewed the Conservation Objectives listed for each of the sites on the NPWS website ([www.npws.ie](http://www.npws.ie)). Table 8.1 below summarises the information considered for the

Appropriate Assessment and the site integrity test. This information has been compiled from the information contained in the NIS and information from the NPWS.

**Table 8.1 – AA summary matrix for River Boyne and River Blackwater SPA and SAC:**

River Boyne and River Blackwater SPA (004232)			
Special Conservation Interest (SCI)	Conservation Objectives	Summary of Appropriate Assessment	
		Potential Adverse Effects	Mitigation Measures
Kingfisher (Alcedo atthis) [A229]	To maintain the favourable conservation condition of the SCI –	<p>Deterioration of water quality from pollution of surface and/or ground water during the construction / operational phase.</p> <p>Pollution from silt, hydrocarbons or fuel could result in the deterioration of water quality in the surrounding watercourses which could impact on the availability of food or on foraging opportunities. In turn this could impact on populations.</p>	<p>Mitigation measures are listed in Section 5 of the NIS and include the following,</p> <p>A 5m buffer zone shall be retained between the site infilling works and any watercourses and/or drains within the site.</p> <p>Prior to commencement of development this buffer zone shall be cordoned off from site works.</p> <p>There must be no storage of topsoil or machinery within the 5m buffer zone.</p> <p>Suitable attenuation measures such as silt fences should be used at the edge of the buffer zone to prevent runoff from entering the watercourses.</p>

			<p>All existing natural vegetation within the buffer zone must be retained.</p> <p>All materials imported to the site must be free of listed invasive species.</p> <p>A list of hydrocarbon/fluid management measures are also included in Section 5 of the NIS.</p>
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#### **Overall Conclusion – Integrity Test**

The grounds of appeal put forward that the mitigation measures included in the NIS are not complete, precise or definitive as required by case law. Reference is made to how attenuation measures at the buffer zone will be implemented, how the control of invasive species in imported material will be managed and what measures will be used to manage hydrocarbons.

Potential adverse effects on the SAC were identified through the discharge of polluted surface water runoff into the watercourse in and around the site. The mitigation measures listed in the NIS relate to the protection of the existing watercourses on the site from pollution through accidental spills and/or silt contained in uncontrolled surface water runoff. Section 5 of the NIS states that the mitigation measures are to be implemented by the applicant / developer and that a 5m buffer zone should be installed prior to the commencement of development and should stay in place until all site works are complete and the seeded grass has grown. The NIS also states that 'suitable attenuation measures such as silt traps' should be installed at the edge of the buffer zone and should remain in place until the bare soil is seeded and grass has grown.

The development would be subject to a waste permit from the Local Authority under the Waste Management (Facility Permit and Registration) Regulations, Statutory Instrument, S.I. 821 of 2007 as amended. This permit would specify the type of waste to be allowed onto the site and the criteria for accepting waste onto the site. This would regulate and control the importation of Invasive Species, and the measures listed for the management of hydrocarbons or other fuels are good practice measures for any construction site.

I have reviewed the mitigation measures, and I am satisfied that they specify who is responsible for their implementation, how and where the measures will be provided, and the timeframe for the measures to be in place. Whilst the effectiveness of the mitigation measures is not questioned, the

wording in the NIS could have been clearer. Had the author used the word 'shall' instead of 'should' the mitigation measures would have contained a clearer direction for their implementation. However, should the Board be minded to grant permission for the development, the wording of the standard planning condition relating to the NIS states that the 'mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented'. On this basis I am satisfied that the wording of the condition gives a clear direction to implement the mitigation measures contained in the NIS without ambiguity.

I am satisfied that the implementation of the mitigation measures listed in the NIS would be sufficient to reduce the impact of pollution from surface water runoff to a level whereby it is insignificant and would not result in any adverse effects on integrity of the SAC.

### **Cumulative Impacts**

Section 4.3 of the NIS considered whether any plans or projects have the potential to act cumulatively or in-combination with the development to adversely affect the integrity of the Natura 2000 sites identified. The NIS notes that any existing or proposed project must comply with the environmental policies and objectives of the Meath County Development Plan, which ensure the protection of Natura 2000 sites and require any future project to undergo Screening for Appropriate Assessment or Appropriate Assessment. The relevant Development Plan policies and objectives are listed in Table 8 of the NIS. A review of recently permitted development in the Painestown area, which could potentially act in-combination with the subject proposal was also carried out. All permitted applications in the last 3 years were screened for AA and significant effects on the River Boyne and River Blackwater SPA and SAC were ruled out.

The Dawn Meats processing plant adjoins the subject site to the north and drains to the Roughgrange Stream. Existing development on the site is regulated by an EPA IPC licence, (Reg. No. PO811-02), and was screened for AA under the licencing process. There is currently an appeal before the Board, (Ref. ABP- 313586-22, PA Ref. 21424), for development at Dawn Meats which would include an extension to the existing wastewater treatment plant at Dawn Meats along with a new discharge point at the River Boyne and a new pipeline to be laid along Windmill Road, the L1013 and an unnamed local road. This application is accompanied with an EIAR and an NIS. I am satisfied that the proposed development would not have any cumulative impacts with the existing activities on the Dawn Meats site as these activities were screened for AA and were found not likely to have a significant effect on a European Site(s) either individually or in combination.

### **Conclusion**

The applicant determined that following the implementation of mitigation measures, the construction and operation of the proposed development alone or in combination with other plans and projects will not adversely affect the integrity of this European site.

I have reviewed the mitigation measures proposed for the subject development, and I am satisfied that impacts from the development in terms of pollution from surface water runoff containing silt,

sediment, hydrocarbons or other pollutants, which could impact on the water quality of the SPA and in turn impact on the feeding potential for the SCI would be unlikely following the implementation of the mitigation measures proposed.

**River Boyne and River Blackwater SA (002299)**

<b>Special Conservation Interest (SCI)</b>	<b>Conservation Objectives</b>	<b>Potential Adverse Effects</b>	<b>Mitigation Measures</b>
<b>River Lamprey (<i>Lampetra fluviatilis</i>) [1099]</b>	To restore the favourable conservation condition of River Lamprey.	Deterioration of water quality from pollution of surface and/or ground water during the construction / operational phase.	Mitigation measures for the SAC are the same as measures listed for the SPA.
<b>Atlantic Salmon, (<i>Salmo salar</i>) [1106]</b>	To restore the favourable conservation condition of Atlantic Salmon.	Pollution from silt, hydrocarbons or fuel could result in the deterioration of water quality in the surrounding watercourses which could impact on the availability of food or on foraging opportunities in the SAC. In turn this could impact on populations. River Lamprey and Salmon also require good water quality for breeding and migrating and both species are sensitive to changes in silt levels.	A 5m buffer zone shall be retained between the site infilling works and any watercourses and/or drains within the site.
<b>Otter (<i>Lutra lutra</i>) [1355]</b>	To maintain the favourable conservation condition of Otter.		Prior to commencement of development this buffer zone shall be cordoned off from site works.  There must be no storage of topsoil or machinery within the 5m buffer zone.  Suitable attenuation measures such as silt fences should be used at the edge of the buffer zone to prevent runoff from entering the watercourses.  All existing natural vegetation within the

			<p>buffer zone must be retained.</p> <p>All materials imported to the site must be free of listed invasive species.</p> <p>A list of hydrocarbon/fluid management measures are also included in Section 5 of the NIS.</p>
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#### **Overall Conclusion – Integrity Test**

The applicant determined that following the implementation of mitigation measures the construction and operation of this proposed development alone or in combination with other plans and projects will not adversely affect the integrity of this European site.

As noted above the grounds of appeal considered the mitigation measures listed in the NIS to be inadequate as they were not complete, precise or definitive as required by case law. I have addressed this issue in full above and I am satisfied that, should the Board grant permission for the development, that the application of the standard NIS planning condition gives sufficient direction to oversee the implementation of the mitigation measures listed in Section 5 of the NIS.

The appellant also states that ‘Otter (*Lutra lutra*) have been sighted on the laneway’. No clarification is given as to whether the laneway mentioned is the laneway that bisects the subject site, Windmill Road, or an entirely different laneway. The NIS notes that records exist for the species from the River Boyne within the Zone of Influence for the subject site. It also lists the threats to the species which include, habitat destruction and bank clearance, pollution resulting in fish kills, disturbance of habitat from recreational activities and accidental deaths. I am satisfied that the NIS has considered the potential impacts of the development on Otter, and that the mitigation measures included in the NIS, such as the provision of a 5m buffer zone along watercourses and measures to prevent runoff, would be sufficient to prevent any significant impact on the conservation objectives for this species.

#### **Cumulative Impacts**

In-combination effects were considered in the NIS by reviewing recent planning applications in the area for the past three years. The NIS noted that all permitted applications in the last 3 years were screened for AA and significant effects on the River Boyne and River Blackwater SPA and SAC were ruled out.

As noted above, there is an appeal pending decision for the Dawn Meats processing plant to the north of the site, (Ref. ABP- 313586-22, PA Ref. 21424). This application is accompanied by an EIAR and an NIS. Existing development on the site is regulated by an EPA IPC licence, (Reg. No. PO811-02), and was screened for AA under the licencing process. I am satisfied that the proposed development would not have any cumulative impacts with the existing activities on the Dawn Meats site as these activities were screened for AA and were found not likely to have a significant effect on a European Site(s) either individually or in combination.

I have reviewed the mitigation measures proposed for the subject development, and I am satisfied that impacts from the development in terms of pollution from surface water runoff containing silt, sediment, hydrocarbons or other pollutants would be unlikely following the implementation of the mitigation measures proposed.

### **Appropriate Assessment Conclusion**

- 8.6. In screening the need for Appropriate Assessment, it was determined that the proposal for the infill of agricultural lands within an area of 34.38 hectares with inert soil and stone material (100,000 tonnes), had the potential to result in significant effects on the River Boyne and River Blackwater SAC and on the River Boyne and River Blackwater SPA and that Appropriate Assessment was required in view of the conservation objectives of those sites.
- 8.7. Following a detailed examination and evaluation of the NIS, all associated material submitted with the planning appeal as relevant to the Appropriate Assessment process, and taking into account submissions of third parties, I am satisfied that the proposed development, combined with the proposed mitigation measures to address impacts from surface water runoff pollution during the operational phase would prevent adverse effects on the integrity of River Boyne and River Blackwater SAC and on the River Boyne and River Blackwater SPA. This conclusion is based on,
- Detailed assessment of all aspects of the proposed development that could result in significant effects or adverse effects on European Sites within a zone of influence of the development site.
  - Consideration of the conservation objectives and conservation status of qualifying interest species and habitats.

- A full assessment of risks to special conservation interest bird species and qualifying interest habitats and species.
- Application of mitigation measures designed to avoid adverse effects on site integrity and likely effectiveness of same.
- Consideration and assessment of in-combination effects with other plans and projects.

## 9.0 Recommendation

I recommend that planning permission is granted for the development.

## 10.0 Reasons and Considerations

10.1. Having regard to the nature and extent of the proposed development for the infilling of land with inert material, and its location within a rural agricultural area, it is considered that subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety, would not be prejudicial to public health, and would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would be in accordance with the policies and objectives of the Meath County Development Plan 2021 – 2027 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 15th day of February 2023, 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
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	<p>accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The permission shall apply for a period of five years from the date of this order. Following the expiration of this period, the importation of material to the site and operations on site shall cease, unless prior to the end of the period, planning permission shall have been granted for a further period.</p> <p><b>Reason:</b> To regulate the duration of the development, in the interest of the proper planning and sustainable development of the area.</p>
3.	<p>The development shall not commence on this site until a Waste Facility Permit, has been issued by the Local Authority and site operations shall be in accordance with the said permit.</p> <p><b>Reason:</b> In the interest of amenity and to prevent environmental pollution</p>
4.	<p>The importation of inert soil, stone and topsoil and the operation of associated machinery and any other site works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays.</p> <p><b>Reason:</b> To safeguard the amenity of property in the vicinity.</p>
5.	<p>The imported material to be deposited on the land shall comprise clean uncontaminated inert soil, stone and topsoil only, and shall be levelled, contoured and seeded upon the completion of the works and protected until established.</p> <p><b>Reason:</b> In order to assimilate the development into the surrounding rural landscape, in the interest of visual amenity.</p>
6.	<p>As part of the site operational governance the applicant shall retain a register to record any complaints regarding the works hereby permitted.</p> <p><b>Reason:</b> In the interest of orderly development.</p>
7.	<p>The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.</p>

	<b>Reason:</b> To protect the integrity of European Sites.
8.	<p>(i) A minimum 5 metre-wide buffer zone shall be maintained between that part of the site to be filled and adjacent drainage ditches and streams.</p> <p>(ii) The buffer zone shall be cordoned off from earth movement works and suitable bunds, barriers and/or silt fencing shall be erected along the boundary of the infill area and the buffer zone to prevent soil and sediment from entering watercourses throughout the course of works.</p> <p>(iii) Details of the buffer zone and the provision of bunds, barriers and/or silt fencing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of clarity and in order to protect receiving drainage water courses</p>
9.	<p>Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the following: surface water run-off from the site and environmental management measures including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.</p> <p><b>Reason:</b> In the interest of environmental protection.</p>
10.	<p>Noise monitoring locations for the purposes of the construction phase of the proposed development shall be agreed in writing with the planning authority prior to commencement of any development on site.</p> <p>The external noise levels, when measured at noise sensitive receptors shall not exceed 55 dB LAeq,16hr. An annual noise survey shall be</p>

	<p>undertaken by a competent person, in accordance with the relevant guidance, and submitted to the Local Authority.</p> <p><b>Reason:</b> To protect the amenities of property in the vicinity.</p>
11.	<p>During the operational stage, dust emissions shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Details to be submitted shall include monitoring locations, the commencement date and the frequency of monitoring results.</p> <p><b>Reason:</b> To protect the amenities of property in the vicinity.</p>
12.	<p>A wheel washing facility shall be provided for the duration of the construction period, 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.</p> <p><b>Reason:</b> In the interest of traffic safety and biosecurity.</p>
13.	<p>The developer shall implement measures to reduce environmental risks associated with re-fuelling, greasing, and other activities within the site. Such measures may include, but are not restricted to, the use of spillage mats and catch trays. Such measures shall be subject to the written agreement of the planning authority prior to commencement of works.</p> <p><b>Reason:</b> To prevent water pollution.</p>
14.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services and shall be agreed in writing prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
15.	<p>Silt traps shall be provided on all surface water drainage channels. Details in this regard shall be submitted to, and agreed in writing with, the planning</p>

	<p>authority prior to commencement of development.</p> <p><b>Reason:</b> To prevent water pollution.</p>
16.	<p>Details of road signage including advance warning notices and proposals for traffic management at the site entrance shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of traffic safety.</p>
17.	<p>All necessary measures shall be taken by the applicant / developer to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the applicant / developers own expense.</p> <p><b>Reason:</b> To protect the amenities of the area.</p>
18.	<p>All trees and hedgerows on the boundaries of the site shall be retained and maintained. Retained trees and hedgerows shall be protected from damage during construction and infill development works.</p> <p><b>Reason:</b> To protect trees and planting during the construction and infill period, in the interest of visual amenity and biodiversity.</p>
19.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –</p> <p>a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development,</p> <p>b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any</p>

	<p>of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site</p>
20.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory completion of the development.</p>
21.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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.

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. Elaine Sullivan  
Planning Inspector

6<sup>th</sup> of October 2024

## Appendix 1

### AA Screening Determination Template

#### Screening for Appropriate Assessment Screening Determination

##### Step 1: Description of the project

The subject site is located in the rural townland of Painestown, Co. Meath and is approximately 12km to the northeast of Navan town centre. The development site extends to an area of 8.03 hectares and forms part of a wider landholding of 34.38 hectares. A laneway bisects the landholding in a north-south direction. The subject site and the surrounding land uses are agricultural in nature with improved agricultural grassland as the dominant habitat in the area. To the south, the site is bounded by the L1013 and to the west the site is bounded by the local road known as Windmill Road which connects the L1013 with the L1600 to the north.

The development proposal involves the infilling of lands with imported inert material consisting of soil and stone for agricultural benefit. It is proposed to import 100,000 tonnes of material over a 5-year period, (20,000 tonnes a year). Haul roads across the site would not be paved or covered with hardcore, and ancillary works would involve the widening and alterations to an existing agricultural entrance.

Access to the site is proposed from Windmill Road, which also provides access to the Dawn Meats Processing Plant, directly to the north of the site. There is a commercial plant nursery to the south of the site and on the opposite side of the L1013. The remainder of development in proximity to the site comprises dispersed one-off houses along the local roads and agricultural yards.

The topography of the site is undulating in nature with the levels rising and falling in across the site. The site is within the Boyne Hydrometric Area (07), Catchment (07), the Boyne Sub-Catchment (110) and the Roughgrange Stream Sub-Basin (010). There are some watercourses within the site, which include streams flanking the lane that divides the site and drainage ditches that occur along the field boundaries to the South. Water in these streams flow south towards the Roughgrange stream, approximately 385 meters to the south of the site. The Roughgrange stream flows east and then north where it outfalls to the river Boyne at Roughgrange. The Roughgrange stream or its tributaries have not been

given an ecological status, however, the river Boyne at its confluence with this stream is classed as having 'good' status under the Water Framework Directive.

The closest European Sites to the subject site are,

- the River Boyne and River Blackwater SAC, (Site Code 002299), approximately 3.4km to the north of the site, and
- the River Boyne and River Blackwater SPA, (Site Code (approximately 3.8km to the north of the site).

### **Step 2: Potential impact mechanisms from the project**

The proposed development for the importation of inert soil and stone would not result in any direct impacts on any European Site.

Through the application of the source-pathway-receptor model, an indirect hydrological connection is identified from the watercourses on and around the site to the River Boyne and River Blackwater SAC and SPA. The proposed development would involve infilling areas on the site that are adjacent to or in close proximity to the drainage channels or watercourses on the site. Therefore, the development has the potential for the following indirect impacts,

- Deterioration of water quality during the operational phase arising from pollution of surface water runoff from infilling activities through the release of silt / hydrocarbons / oil into the drainage channels and watercourses on the site.

Where an ecological / hydrological pathway exists, indirect impacts could negatively affect qualifying interests, species and habitats, that rely on high water quality.

### **Step 3: European Sites at risk**

An indirect pathway exists from the subject site to the River Boyne and the River Blackwater SAC and SPA via the existing drainage system, watercourses and the Roughgrange Stream which discharges to the River Boyne at a hydrological distance of approximately 8km from the subject site.



**Table 1 : European Sites at risk from impacts of the proposed project**

Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk
Deterioration of downstream water quality through contaminated surface water runoff from silt, hydrocarbons and/or oil during the operational stage.	Watercourses / Roughgrange Stream & tributaries	River Boyne and River Blackwater SAC	Alkaline fens [7230] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i> , <i>Salicion albae</i> ) [91E0] <i>Lampetra fluviatilis</i> (River Lamprey) [1099] <i>Salmo salar</i> (Salmon) [1106] <i>Lutra lutra</i> (Otter) [1355]
Deterioration of downstream water quality through contaminated surface water runoff from silt, hydrocarbons and/or oil during the operational stage.	Watercourses / Roughgrange Stream & tributaries	River Boyne and River Blackwater SPA	Kingfisher ( <i>Alcedo atthis</i> ) [A229]

**The River Boyne and River Blackwater SAC** (SC 002299) comprises the freshwater element of the river Boyne as far as the Boyne Aqueduct, the Blackwater as far as Lough Ramor and the Boyne tributaries including the Deel, Stoneyford and Tremblestown Rivers. The main areas of alkaline fen in this site are concentrated in the vicinity of Lough Shesk, Freehan Lough and Newtown Lough, (to the east of Navan). Wet woodland fringes many stretches of the Boyne with notable occurrences on a chain of small islands c. 2.5km to the west of Drogheda. The dominant habitat along the edges of the river is freshwater marsh with a secondary habitat of wet grassland. Along much of the Boyne and along tributary stretches are found areas of mature deciduous woodland on the steeper slopes above the floodplain marsh or wet woodland vegetation. Other habitats present along the Boyne and

Blackwater include lowland dry grassland, improved grassland, reedswamp, weedy waste ground, scrub, hedge, drainage ditch and canal.

Atlantic Salmon use the tributaries and headwaters of the Boyne as spawning grounds. Salmon stocks in the Blackwater River suffered from an arterial drainage scheme in the 1970's and are still recovering. River Lamprey are present in the lower reaches of the Boyne and Otter can be found throughout the site.

**The River Boyne and River Blackwater SPA** (004232) is a long, linear site that comprises stretches of the river Boyne and several of its tributaries. Most of the site is in Co. Meath, but it extends also into Co's Cavan, Louth and Westmeath. The site is a Special Protection Area (SPA) under the E.U. Birds Directive of special conservation interest for the Kingfisher. A survey in 2010 recorded 19 pairs of Kingfisher (based on 15 probable and 4 possible territories) in the River Boyne and River Blackwater SPA.

#### Step 4: Likely significant effects on the European site(s) 'alone'

**Table 2: Could the project undermine the conservation objectives 'alone'**

River Boyne and River Blackwater SAC	To maintain or restore the favourable conservation condition of the Qualifying Interests	Could the conservation objectives be undermined (Y/N)?			
		Deterioration of Water quality	Effect B	Effect C	Effect D
Alkaline fens [7230]	Maintain	N			
Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i> , <i>Salicion albae</i> ) [91E0]	Restore	N			
<i>Lampetra fluviatilis</i> (River Lamprey) [1099]	Restore	Y			

Salmo salar (Salmon) [1106]	Restore	Y			
Lutra lutra (Otter) [1355]	Maintain	Y			
<b>River Boyne and River Blackwater SPA</b>	<b>To maintain the favourable conservation condition of the Qualifying Interest</b>				
Kingfisher (Alcedo atthis) [A229]	Maintain	Y			

### **River Boyne and River Blackwater SPA**

The Kingfisher is the only listed Special Conservation Interest (SCI) for the River Boyne and River Blackwater SPA. The Screening report states that specific conservation objectives for the SPA are not listed, which was correct at the time of writing. Information on the NPWS website regarding the SPA was updated in July 2024 to include specific conservation objective, '*To maintain the Favourable conservation condition of Kingfisher in River Boyne and River Blackwater SPA*'. The favourable conservation condition of Kingfisher is defined by a list of attributes and targets which include, 'Forage spatial distribution, extent, abundance and availability', and 'water quality'. The water quality target for Kingfisher is defined as Q4, i.e. good ecological status.

As the Kingfisher is a piscivorous bird species, there is a potential for significant impacts on foraging activity via contaminated surface water drainage. Silt laden or contaminated surface water from the site has the potential to negatively impact the fish populations of downstream watercourses and therefore to impact the feeding opportunities for Kingfisher. Information published on the NPWS website states that habitat destruction and degradation via pollution are a concern. In the absence of mitigation measures, significant effects on the SCI for this SPA are likely.

### **River Boyne and River Blackwater SAC**

**Alkaline Fens** - The conservation objective for Alkaline Fen is to maintain the favourable conservation condition of the SCI. The main areas of Alkaline Fen in the SAC are concentrated in the vicinity of Lough Shesk, Freehan Lough and Newtown Lough, (source NPWS), and are all in separate hydrological sub-catchments to the application site. As

they are outside of the Zone of Influence of the proposed development, the attributes and targets listed under the objective to maintain the favourable conservation condition of Alkaline fens in the SAC would not be undermined.

**Alluvial Forests with *Alnus glutinosa* and *Fraxinus excelsior*** - The conservation objective for this SCI is to restore their favourable conservation condition. Alluvial forests favour periodically inundated heavy soils. Among the threats to this habitat are hydrological changes in water level and regulation of watercourses with flooding with polluted waters also listed. The Screening Report states that aerial maps show areas of alluvial woodland along the river Boyne, downstream of Navan, and at points upstream and downstream of the confluence of the watercourse that provides connectivity to the application site. Alluvial woodland is a groundwater dependent habitat, and favorable hydrological conditions are required to restore the appropriate hydrological regime for the maintenance of alluvial vegetation. The Screening Report concludes that infilling works will not result in any changes to the hydrological regime in the lands that support this habitat there will be no pollution to groundwater which might affect this habitat. I agree that the proposed development would not alter the hydrological regime that could impact on the SCI. Furthermore, should silt or other pollutions from the site enter the watercourse the separation distance between the subject site and the locations of the SCI to provide sufficient levels of hydrological mixing and settlement which would prevent a significant impact on the conservation objectives of this SCI.

**Salmon (*Salmo salar*)** – The conservation objective for this SCI is to restore its favorable conservation condition. Salmon occur throughout the Boyne and Blackwater River system and use the tributaries and headwaters of the River Boyne as spawning grounds. A decline in water quality would impact on this SCI and an EPA Q value of at least Q4 at all sites is listed as a target under the conservation objectives for this SCI. Given the pathway and proximity of the development site to the river Boyne and its tributaries impact on surface water quality in the catchment and subsequent significant effects on this species cannot be ruled out.

**River Lamprey (*Lampetra fluviatilis*)** – The conservation objective for this SCI is to restore its favorable conservation condition. The main threat to this species is dredging, changes to siltation patterns, sedimentation of spawning gravels and the introduction of impediments to migration. They are also sensitive to changes in water quality. In the absence of mitigation measures an accidental pollution event from the proposed

development could impact the species due to silt deposition and pollution of that water courses. Therefore, significant effects on this species cannot be ruled out.

**Otter (*Lutra lutra*)** - The main threats to Otter in Ireland are thought to be habitat destruction including river drainage and the clearance of bankside vegetation, pollution resulting in fish kills, disturbance of habitat due to recreational activities and accidental deaths. In freshwater habitats the diet of the Otter consists of a variety of fish with crayfish and frog availability also important. Impacts that reduce the quality of, or cause disturbance to, terrestrial or aquatic habitats are likely to affect Otter. Therefore, the pollution of surface waters as a result of an accidental pollution event or a buildup of silt, could result in significant negative effects on this species.

I conclude that the proposed development would have a likely significant effect 'alone' on the qualifying interest, Kingfisher (*Alcedo atthis*) of the River Boyne and River Blackwater SPA (Site Code 004232) and the qualifying interests of Salmon, Otter and River Lamprey of the River Boyne and River Blackwater SAC (Site Code 002299), as a result of the effects associated with the uncontrolled discharge of pollutants in surface waters. An appropriate assessment is required on the basis of the effects of the project 'alone'. Further assessment in-combination with other plans and projects is not required at this time.

### **Overall Conclusion- Screening Determination**

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development would have a likely significant effect 'alone' on the qualifying interest, Kingfisher (*Alcedo atthis*) of the River Boyne and River Blackwater SPA (Site Code 004232) and the qualifying interests of Salmon, Otter and River Lamprey of the River Boyne and River Blackwater SAC (Site Code 002299), as a result of the effects associated with the uncontrolled discharge of pollutants in surface waters.

An appropriate assessment is required on the basis of the effects of the project 'alone'. Further assessment in-combination with other plans and projects is not required at this time.

It is therefore determined that Appropriate Assessment (stage 2) is required on the basis of the effects of the project 'alone'.

## Appendix 2 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	<b>ABP-317324-23</b>			
<b>Proposed Development Summary</b>	Restoration of lands for agricultural gain through importing and depositing of inert material comprising natural minerals of clay, silt, sand, gravel or stone.			
<b>Development Address</b>	Painestown, Beauparc, Navan, Co. Meath.			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	<b>X</b>	
		<b>No</b>	No further action required	
<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>	<b>X</b>		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>	<b>X</b>	Class 11(b) - 'Installations for the disposal of waste with an annual intake greater than 25,000		Proceed to Q.4

		<i>tonnes not included in Part 1 of (Schedule 5)'.</i>		
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4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes	X	Screening Determination required

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

### Appendix 3

#### EIA – Screening Determination

<b>An Bord Pleanála Case Reference</b>	<b>ABP31732423</b>	
<b>Development Summary</b>	<p>The proposed development is for the restoration of lands for agricultural gain through importing and depositing of inert material comprising natural minerals of clay, silt, sand, gravel or stone.</p> <p>The development will involve the filling in of agricultural lands with an area of 8.03 hectares with inert material consisting of gravel and stones. Approximately 100,000 tonnes of soil and stones will be imported over a period of 5 years.</p>	
	<b>Yes / No / N/A</b>	<b>Comment (if relevant)</b>
<b>1. Was a Screening Determination carried out by the PA?</b>	Yes	EIA not required
<b>2. Has Schedule 7A information been submitted?</b>	Yes	Schedule 7A information was submitted in an Environmental Impact Assessment Screening Report which was prepared for the development.
<b>3. Has an AA screening report or NIS been submitted?</b>	Yes	An NIS was submitted with the application and concluded that the <i>'proposed works do not have the potential to significantly affect the conservation objectives or qualifying interests of the River Boyne and Blackwater SAC / SPA. The integrity of the site will not be adversely affected'</i> .



		Appropriate Assessment is dealt with in Section 8.0 of this report.
<b>5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</b>		SEA and AA were undertaken in respect of the Meath County Development Plan 2021-2027, which is the operative Development Plan for the site.
<b>B. EXAMINATION</b>		<p><b>Where relevant, briefly describe the characteristics of impacts (i.e. the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect</b></p> <p><b>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</b></p>
		<b>Is this likely to result in significant effects on the environment?</b>
		<b>Yes/ No/ Uncertain</b>
<b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b>		
<b>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</b>	The subject site forms part of a larger rural landholding which comprises agricultural land. The adjoining lands are generally agricultural in nature with some detached rural houses dispersed along the local road network. Adjoining the site to the north is the Dawn Meats food processing complex. To the south of the site is Yellow	<b>Yes</b> – during the operational phase of the development the appearance of the site would be significantly different

	<p>Furze Nurseries, a wholesale plant nursery. A Panda Waste facility and Boyne Waste Management Service are located approximately 1.5km to the east of the site. During the operational phase of the development, the character of the land would be significantly altered through the importation of material. Post development, the land would be returned to agricultural use and would be similar in character to the surrounding land.</p>	<p>in character to the surrounding environment.</p> <p>The existing hedgerows and boundary treatments would be retained which would mitigate the temporary, negative, visual impact.</p>
<p><b>1.2 Will construction, operation, decommissioning or demolition works causing physical changes to the locality (topography, land use, waterbodies)?</b></p>	<p>The topography of the site will be permanently altered through the importation of materials and the recontouring of the existing land. Post development, the land would be covered with topsoil and reseeded to return it to agricultural use. The recontouring of the site would not render it significantly different from the undulating nature of the surrounding landscape.</p>	<p><b>Yes</b></p> <p>The site would undergo a permanent physical change in the topography of the site.</p>
<p><b>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or</b></p>	<p>The proposed development will involve the Importation of inert materials onto existing land which is used for agriculture. Post development the land will continue to</p>	<p><b>No</b></p>

energy, especially resources which are non-renewable or in short supply?	be used for agriculture. Apart from the land to be infilled, the development would also require the use of fossil fuels for machinery to carry out the works and for the transportation of materials.	
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	<p>The project will involve the transportation of the infill materials by HGV's and will be dispersed on the site by an excavator or bulldozer. The activity would require a Waste Facility Permit from the Local Authority which would regulate the nature of the infill materials and limit the use on the site to inert materials.</p> <p>The activities associated with the development would require the use of potentially harmful materials such as fuels or other such substances. The application states that no diesel or harmful substances will be stored on site and no hydrocarbons will be used or stored on site. Good practice site management requires the proper storage and management of hydrocarbons or other chemicals on the site. Subject to compliance with these practices, there would be no impacts from the storage and/or use of fuels on the site.</p>	<b>No</b>

<b>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</b>	<p>The project relates to the importation of inert material which will be managed and regulated through a Waste Management Permit. It will not produce waste or release any hazardous substances.</p>	<b>No</b>
<b>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</b>	<p>The project relates to the importation of inert material which will be managed and regulated through a Waste Management Permit. The infilling of the site with inert materials will not result in any impacts on groundwater. There is a potential for silt or accidental fuel spillages to enter the surface water system through the existing drainage on the site. However, the proper management of the site will minimise such instances. A Natura Impact Statement was prepared for the application and contains mitigation measures to prevent the release of pollutants into surface waters from the site.</p>	<b>No</b>
<b>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</b>	<p>There is potential for activity to give rise to noise and vibration emissions from the use of HGVs on the site. Such emissions will be localised and short term in nature, and their impacts would be suitably mitigated by limiting the hours of operation and through the</p>	<b>No</b>

	attachment of appropriate conditions to any planning consent.	
<b>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</b>	Construction activity is likely to give rise to dust emissions and surface water runoff. Such impacts would be temporary and localised in nature. The application states that dust suppression measures will be employed on the site such as no infilling during high winds and damping down haul routes through the site in dry weather. There is a potential for silt or accidental fuel spillages to enter the surface water system through the existing drainage on the site. However, the proper management of the site will minimise such instances. A Natura Impact Statement was prepared for the application and contains mitigation measures to prevent the release of pollutants into surface waters from the site.	<b>No</b>
<b>1.9 Will there be any risk of major accidents that could affect human health or the environment?</b>	No significant risk is predicted having regard to the nature and scale of the development. The site is not at risk from flooding. Any risk arising from the importation and infilling activities will be localised and temporary in nature. There are no Seveso/COMAH sites in the vicinity.	<b>No</b>

<b>1.10 Will the project affect the social environment (population, employment)</b>	Due to the nature of the development, there will no significant impact to the social environment.	<b>No</b>
<b>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</b>	The proposed development is limited to one site in a rural area and is not part of a wider development.	<b>No</b>
<b>2. Location of proposed development</b>		
<b>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</b> <ul style="list-style-type: none"> <li><b>a. European site (SAC/ SPA/ pSAC/ pSPA)</b></li> <li><b>b. NHA/ pNHA</b></li> <li><b>c. Designated Nature Reserve</b></li> <li><b>d. Designated refuge for flora or fauna</b></li> <li><b>e. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</b></li> </ul>	<p>The nearest European sites are the River Boyne and River Blackwater SAC and SPA, which are approximately 0.9km to the north of the site as the crow flies. There is a hydrological separation distance of approximately 7.45km between the subject site and the SAC and SPA. The Conservation Objectives for these sites relate to freshwater habitats and species, and the Kingfisher.</p> <p>A ground/surface water pathway has been identified from the site to the SAC and the SPA via the Roughgrange Stream. The NIS concluded that the proposed development will not adversely affect the integrity of these European sites. The potential for significant effects on Natura 2000 sites has been</p>	<b>No</b>

	<p>screened out. Refer to Section 8.0 of the Inspector's Report.</p> <p>The closest pNHAs are the Boyne Woods, (c. 3km to the north of the site), Thomastown Bog, (c. 5.5km to the southeast), and Blarath Woods, (c. 4km to the south). There is no pathway between the subject site and the Boyne Woods, which are upstream from the point where the Roughgrange Stream meets the River Boyne, and the development would not impact on the Thomastown Bog or the Balrath Woods due to the nature of the pNHAs and the separation distances between the sites.</p>	
<p><b>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, overwintering, or migration, be significantly affected by the project?</b></p>	<p>No sensitive species were identified on the site. Otter (<i>Lutra lutra</i>) are listed as a qualifying interest for the River Boyne and River Blackwater SAC, which is 0.9km to the north of the site. They are also a protected species in Irish and EU law. There is a potential for otter to use the site for foraging or commuting. The proposed development will not result in any loss of habitat for otter and the foraging or commuting routes will not be removed or blocked. The NIS sets out the mitigation measures required to prevent polluted</p>	<p><b>No</b></p>

	surface water run off from entering the existing watercourses.	
<b>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</b>	There are no protected structures or national monuments within the site. There is a Geological Heritage Site – Painestown Quarry, approximately 0.5km to the north of the site and there are two archaeological monuments, (Barrow – mound barrow, Ref. ME026-008, and Ogham Stone, Ref. ME026-009), within a 1km distance to the north of the site. None of the sites listed will be impacted by the development.	<b>No</b>
<b>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</b>	The site comprises agricultural land within a rural area. On completion of the development the site will be reseeded and revert to agricultural land.	<b>No</b>
<b>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</b>	The site drains to the River Boyne via the Roughgrange Stream which outfalls to the Boyne at a hydrological distance of 7.45 km from the site. Apart from surface water runoff, the development will not result in any significant discharge of water to the existing watercourses. The site is not located in a flood risk area and the overall permeable surface area of the site would not change. As such the development would not	<b>No</b>



	result in any additional flood risk to existing surface waters.	
<b>2.6 Is the location susceptible to subsidence, landslides or erosion?</b>	No	<b>No</b>
<b>2.7 Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</b>	No – the site will not generate significant levels of traffic and is not located near any national primary roads.	<b>No</b>
<b>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?</b>	No – the site is in a rural location and is surrounded by agricultural land.	<b>No</b>
<b>3. Any other factors that should be considered which could lead to environmental impacts</b>		
<b>3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?</b>	The Dawn Meats processing plant adjoins the subject site to the north and drains to the Roughgrange Stream to the south of the site. Existing development on the site is regulated by an EPA IPC licence, (Reg. No. PO811-02), and was screened for AA under the licencing process. The proposed development would not result in the discharge of any emissions and the only potential cumulative impact would be through the	<b>No</b>

	<p>unregulated discharge of polluted surface waters into the Roughgrange Stream.</p> <p>There is currently an appeal before the Board, (Ref. ABP- 313586-22, PA Ref. 21424), for development at Dawn Meats which would include an extension to the existing wastewater treatment plant at Dawn Meats along with a new discharge point at the River Boyne and a new pipeline to be laid along Windmill Road, the L1013 and an unnamed local road. This application is accompanied with an EIAR and an NIS.</p> <p>I am satisfied that the proposed development would not have any cumulative impacts with the existing activities on the Dawn Meats site as the ongoing activities were screened for AA and were found not likely to have a significant effect on a European Site(s) either individually or in combination. The site is also regulated by an IPC licence which requires monitoring of emissions. Any new development on the site would be subject to assessment for EIA and AA.</p>	
<b>3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?</b>	<b>No</b>	<b>No</b>

3.3 Are there any other relevant considerations?	No	No
<b>C. CONCLUSION</b>		
No real likelihood of significant effects on the environment.	Yes	Agreed
Real likelihood of significant effects on the environment.		EIAR Not Required
<b>D. MAIN REASONS AND CONSIDERATIONS</b>		
<p>Having regard to</p> <ul style="list-style-type: none"> <li>• The nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), 10(b)(iv) of Part 2 to Schedule 5 of the Planning and Development Regulations 2001 (as amended);</li> <li>• The location of the proposed development on agricultural lands where the proposed use is compatible with the RA – Rural Area zoning objective for the site as set out in the Meath County Development Plan 2021-2027, and the results of the Strategic Environmental Assessment of the Development Plan;</li> <li>• The nature of the existing site and the pattern of development in the surrounding rural area;</li> <li>• The location of the development outside of any sensitive location specified in Article 109(4)(a)(v) of the Planning and Development Regulations 2001, as revised;</li> <li>• The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003);</li> <li>• The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as revised, and;</li> <li>• The features and measures proposed by the applicant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided within the Environmental Impact Screening Report and the Natura Impact Statement.</li> </ul>		

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.