



An
Bord
Pleanála

Inspector's Report

ABP-317606-23

Development

Retention of access road, hard surfaced area and two storage silos, and construction of a storage shed.

Location

Gorteenakilla, Newtown, Nenagh, Co. Tipperary

Planning Authority

Tipperary County Council

Planning Authority Reg. Ref.

22377

Applicant(s)

Paul Cahalan

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal

First Party

Appellant(s)

Paul Cahalan

Observer(s)

None

Date of Site Inspection

10th of July 2024

Inspector

Angela Brereton

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Other Technical Reports	10
3.4. Prescribed Bodies	10
3.5. Third Party Observations	10
4.0 Planning History	11
5.0 Policy Context	11
5.1. Relevant Government Policy / Guidelines	11
5.2. Tipperary County Development Plan 2022-2028	12
5.3. Natural Heritage Designations	16
5.4. EIA Screening	16
6.0 The Appeal	17
6.1. Grounds of Appeal	17
6.2. Planning Authority Response	19
6.3. Observations	20
7.0 Assessment	20
7.1. Policy Considerations	20
7.2. Description of Development	22
7.3. Operations and Rationale	23
7.4. Start-up Enterprise in the Open Countryside	25

7.5. Access and Roads	26
7.6. Noise Management.....	29
7.7. Light Pollution	33
7.8. Other Considerations	33
7.9. Concluding Considerations	35
8.0 AA Screening.....	36
9.0 Recommendation.....	37
10.0 Reasons and Considerations.....	37
Appendix 1 – Form 1: EIA Pre-Screening	
Appendix 2 – Form 2: EIA Preliminary Examination	

1.0 Site Location and Description

- 1.1. The site area(0.628ha) is located in the townland of Gorteenakilla approx.1.2km southeast of Newtown in the rural area and to the west of Nenagh, Co. Tipperary. The site is accessed via the narrow local road network (too narrow for two cars to pass). The area along the road frontage of the site has been widened and set back to allow for a passing area along the frontage of the site and the adjoining houses and in front of the bungalow on the opposite side of the road.
- 1.2. The site is located c. 3.5km northwest of Nenagh Town centre on a rural road which is lined with one off-dwellings. The site is accessed between two houses (which are not part of the subject site) via a hardcore surfaced access road. This access road leads to the yard area which is well set back to the rear of these houses. It contains a hardcore surfaced yard area, silos and a concrete base. Also, a number of trucks/vehicles for 'Premier Floor Screed' and some works vehicles and concrete making equipment. There is also an open shed which contains some works related equipment. Some vehicles were also parked onsite. On the day of the site visit there was no one onsite or operations going on therein. There is a partial bund around the northern and southern boundaries of the yard area to aid screening.

2.0 Proposed Development

- 2.1. This proposal is for the following:
- The Retention of the access road and hard surfaced yard area, 2no. storage silos and concrete base for aggregate storage, as constructed.
 - Permission is sought to construct a storage shed and enclosing bund to the silo base, including associated site works.

3.0 Planning Authority Decision

3.1. Decision

On the 22nd of June 2023, Tipperary County Council, refused permission for the proposed development for 4no. reasons which are summarised below:

1. The proposed development is not located within and/or adjoining the owner's home. The development to be retained by virtue of its industrial form, capacity constraints in the local road network, the lack of proven justification for its location within the open countryside and the type of activity proposed does not constitute an appropriate small scale rural enterprise, would be out of character with existing development in this rural area and have a potential impact on residential amenity in the immediate vicinity. That it would not comply with Policy 8-5 of the Tipperary County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the level of artic trucks and HGV movements associated with the development proposed and the limited capacity and narrow width of the local road network the proposal would endanger public safety by reason of traffic hazard or being an obstruction to road users.
3. The proposed development, by reason of the nature and proximity of the proposed industrial facility and associated access between two dwellings, would seriously injure the amenities and depreciate the value of property in the vicinity by reason of scale, proximity and noise disturbance. The proposed development would be contrary to Policy 11-18 and to the proper planning and sustainable development of the area.
4. Insufficient information has been submitted to enable a thorough assessment of environmental impacts arising from the proposed development in particular - light pollution (Policy 11-19 refers). That the proposed development by reason of the nature and proximity of the proposed industrial facility and associated access between two dwellings, would seriously injure the amenities or depreciate the value of property in the vicinity by reason of scale, lighting and general disturbance. It would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner had regard to the locational context of the site, to planning history and policy, to the internal report and the submissions made. Their Assessment included the following:

- They had regard to Policy for Enterprise in the Open Countryside in the North Tipperary CDP 2010 as varied.
- They noted that the commercial operations on site are not considered to be a permitted long-established use.
- The application provides limited information on the usage of the site and it is not possible to determine the impact on residential amenity.
- They advise that a Preliminary Construction Environmental Management Plan be submitted.
- That given the nature of the materials on site, details of surface water drainage for the site should be requested.
- The proposed development is for a concrete plant and is not the type of development included under Schedule 5 of the Planning and Development Regulations 2001, as amended.
- The proposed development has been screened as to the requirement for AA and it has been determined that an AA is not required.
- No flood risk was identified on the site.

Further Information request

This included the following:

- The applicant was advised that the Planning Authority had serious concerns regarding the use of the site for a commercial activity, given the local road access to the site. They were requested to provide details to include the number of vehicles using the access, approx. tonnage of materials, dust suppression system, the provision of passing bays on the L-6050 local secondary road.
- They have regard to Enterprise in the Open Countryside and to Section 5.6.2 and Policy ED 9 of the North Tipperary CDP, 2010, as varied. They note that in the subject case the proposal appears to be for a number of new uses for

the site and there is no clear justification for same at this location. The applicant is requested to outline what other sites were considered for the development at this location noting the provisions of the North Tipperary CDP 2010, as varied or any subsequent Development Plan that relates to enterprise development in the rural area.

- Section 5.6.2 of the NTDP 2010 sought to ensure that proposals do not have an adverse impact on the residential, environmental and rural amenity of the area and that new structures be of a scale appropriate to the size of the site, and be sited and designed to ensure that it does not impact on the rural setting and landscape character of the area. They request F.I regarding the proposals, including the usage and operations, to determine that it will not have an adverse impact.
- The applicant is requested to submit details of environmental management measures to be undertaken to prevent impacts arising from noise and dust emissions. Also to submit details relative to lighting
- To submit details of surface water drainage for the site, including but not limited to details on treatment, disposal locations and rates etc.

Further Information response

Brian England, Design and Draughting Services have submitted an F.I response that includes the following:

- Details relating to traffic movements to and from the site are provided.
- Details are provided for the delivery to and from the site on a weekly basis.
- Mitigation measures are proposed to control dust associated with vehicle movements.
- Proposals are provided for the provision of additional vehicle passing bays at locations outlined on an attached map. Written consent is provided from the landowner concerned, where proposed works are to be undertaken.
- The applicant has been unsuccessful in finding alternative suitable sites within an urban setting for his purposes, which is confirmed in a letter from a local estate agent.

- The applicant developed the subject site on his own lands to serve the requirements of his business, to provide a storage base for vehicles, plant and materials.
- The site use and existing/proposed installations are not inconsistent with rural based development.
- Axis Environmental Services Ltd carried out a site survey and investigation of the operations and have issued a report and environmental manual for the site. Details including a narrative are given of operations and monitoring.
- Storage locations are detailed on the Site Plan. The proposed shed will eliminate the requirement for independent outdoor storage facilities on site.
- Waste will be stored in appropriate containers and removed from site by licenced waste contractors.
- Axis Environmental Services have provided an Environmental manual which includes regard to the operations and monitoring to control and manage environmental matters at the facility.
- Details are provided in accompanying plans for the provision of surface water collection and treatment through an oil interceptor.
- The yard area surface treated with concrete surface and bund wall, effectively allows the site area to become an emergency bund and to contain any potential contamination on site.
- Mitigation measures are provided to reduce noise and dust on the site and impact of onsite lighting and details are given of these.
- Surface water drainage details are provided within the revised site plan.
- Details are given of an Operation Narrative relative to Premier Floor Screed, Vehicular Movements and Materials Storage.
- A Road Assessment of the L-6050 has been included. This includes regard to Road Passing Bay Construction and photographs of the proposed areas for passing bays.
- Revised Public Notices were submitted.

Planner's Response

The Planner had regard to the F.I submission and their Assessment included the following:

- The site is located in a rural location and the local road is not adequate to serve an industrial type, development. The operations narrative does not adequately deal with the vehicular movements associated with the site.
- It is not possible to control or enforce the measures the applicant has proposed to remediate the District Engineer's concerns.
- The applicant would be encouraged to relocate on zoned lands. While it is stated that the proposed site is within a landholding, the owner of the lands does not appear to be the applicant. They consider that the proposal would not comply with Policy 8-5 (small scale start up business).
- Notwithstanding the submission of a Noise Sensitive Survey they have concerns regarding the impact on the surrounding residential amenities.
- The access to the proposal is between 2no. residential properties and they are concerned that the proposal would negatively impact on residential amenity having regard to Policy 11-18 (noise disturbance and management).
- The proposal would be more appropriately located in an alternative location on zoned lands to ensure no negative impact on existing residential having regard to Policy 8.5.
- They refer to the Environmental Management Manual and are concerned regarding the environmental management measures proposed would not result in an adverse environmental impact.
- They are not satisfied that surface water drainage has been adequately dealt with in the proposal.
- They are not satisfied that the proposal would not result in light pollution and refer to Policy 11-19.
- While they note the District Engineer Environment Section had no objections to the proposal, they are not satisfied that adequate information has been submitted relative to road design, visibility and direct access.

- They do not consider it an appropriate small scale rural enterprise, in accordance with policy of the Tipperary CDP and recommend refusal for 4no. number reasons.

3.3. **Other Technical Reports**

Nenagh District Engineer

They note the L-6054-0 is a Local Secondary road 3m in width. They are concerned about the width of the access road for associated commercial traffic and lack of passing opportunities. That there is a lack of information submitted considering the scale and nature of the development. They requested that F.I be sought regarding the access, dust suppression system, proposed tonnage of materials and passing bays on the local road.

They noted the F.I response submission and note that it is proposed to provide passing bays and to implement a one-way system for vehicles accessing the site. They provide that they have no objections to the proposal.

Environment Section

- They noted the concerns that the submitted Noise Report (received on foot of the F.I request) may not fully address potential noise impacts on surrounding Noise sensitive locations.
- They note that they are satisfied with the findings of the Noise Report and recommend a Noise Limit condition.

3.4. **Prescribed Bodies**

No responses noted on file.

3.5. **Third Party Observations**

Submissions from local residents included regard to the following concerns:

- Regarding the proximity of the development to existing residential, noise, dust, impact on privacy etc.
- Safety risk regarding the access, for delivery trucks on this narrow local road.

- Impact of dust as a result of the proposed usage, including from the silo storing cement. Health and Safety implications.
- Devaluation of adjacent properties.

4.0 Planning History

The Planner's Report notes the following planning history:

On Site

- Reg.Ref. 09510296 – Permission granted for an agricultural entrance (not constructed).
- Reg.Ref: 16601043 – Permission granted subject to conditions to Roger Coffey for the provision of an agricultural entrance including associated site works.

Adjoining lands:

- 16/600395 – Permission granted to Sheena Howard subject to conditions for a dwelling, garage, surface water treatment system and associated site works at Gorteenakilla, Newtown, Nenagh.

This concerns the site to the west of the entrance to the subject site.

Enforcement

- TUD-22-027 – Case open re: unauthorised development - Alleged unauthorised laying out of lands for an industrial production yard associated with the storing and processing of a concrete flood screed product for the construction industry.

5.0 Policy Context

5.1. Relevant Government Policy / Guidelines

- Project Ireland 2040 - National Planning Framework
- Southern Region Spatial and Economic Strategy (RSES)
- Climate Action Plan 2024

- Our Rural Future Rural Development Policy 2021-2025
- Traffic and Transport Assessment Guidelines (2014)
- Development Management, Guidelines for Planning Authorities (2007)
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009).

5.2. Tipperary County Development Plan 2022-2028

This has superseded the previous North Tipperary Plan 2010 -2017 (as extended) and is now the pertinent Plan.

Section 2.5.5 seeks to provide a ‘Strong Rural Economy with Diverse and Connected Communities’. Reference is had to a new strategy to support the growth and development of rural Ireland: “Our Rural Future: A Rural Development Policy 2021-2025 (DRCD, 2021).”

Enterprise and Rural Development

Chapter 8 sets out planning policies and objectives to support sustainable and diverse enterprise, employment in Tipperary. It also seeks to inform and guide at a strategic level, local economic strategies and plans by agencies involved in enterprise and economic development. Table 8.1 provides a list of Key Employment Sectors (2016).

Reference is had to Strategic Employment Locations and this includes: Streame Business Park, Limerick Road, Nenagh. This is a 15ha mixed-use landbank located on the Limerick Road and planned as a key employment site for the town. *The Council also acknowledges that some employment generating uses, of a unique or a strategic scale, may have specific land-use requirements that require them to be located away from towns, these are, for example, often related to renewable energy, the bioeconomy, the digital economy or tourism.*

Section 8.4 provides the Rural Development Strategy. This includes regard to agriculture, horticulture and the bloodstock industry. Also, to mining, quarrying, forestry, pear extraction and renewable energy. *The Council will seek to protect our high-quality agricultural lands and to support a diverse and sustainable rural economy.*

Section 8.4.4 refers to Start-Up Enterprise in the Open Countryside i.e. *It is recognised that the viability of start-up enterprises is often dependent on the use of a home base. On a case-by case basis, the Council will seek to facilitate small-scale enterprise developments outside of settlements, to facilitate a start-up entrepreneur in or adjacent to their own home. Proposals will be balanced with the need to protect the residential amenities of adjoining landowners, and the visual amenities of the area. In this respect, proposals for new buildings should be of domestic proportions and capable in time of returning to a domestic use. It should be noted for clarity, that uses that would entail significant customer draw, including non-farm related shops/retailing will not be considered appropriate in the open countryside. Furthermore, if the enterprise needs to expand significantly and has no operational need to be located in a rural area, it will be expected to locate to a settlement with the appropriate level of infrastructure and services.*

Section 8.5 refers to Non-conforming uses i.e. *In cases where authorised long-established commercial activities are in operation at locations that are not compatible with current planning objectives, the Council will support their continued operation and expansion, provided that it does not result in loss of amenity to adjoining properties, adverse impact on the environment, visual detriment to the area or creation of a traffic hazard.*

Section 8.6 provides the Planning Policies. Policies 8 -1 to 8-11 refer and Section 8.7 the Planning Objectives 8-A to 8-L refer.

Policy 8-5 seeks to: *Support and facilitate small-scale start up-rural enterprise in the countryside within and/or adjoining the owner's home. Development proposals will be required to meet the following criteria:*

- a) The development shall not have an adverse impact on the residential, environmental and rural amenity of the area;*
- b) Any new structure shall be of a scale appropriate to the size of the site, and be sited and designed to ensure it does not detract from the rural setting and landscape character of the area;*
- c) Where the enterprise or activity develops to a scale that is inappropriate by virtue of activity or size in its rural context, the Council will encourage its re-*

location to a more suitable location on zoned land within towns and villages, and,

- d) Uses that would entail significant customer draw, including non-farm related shops/retailing will not be considered appropriate.*

Policy 8-9: Where commercial/industrial enterprises exist as non-conforming but long-established uses, to support their continued operation and expansion, provided such does not result in loss of amenity to adjoining properties, adverse impact on the environment, visual detriment to the character of the area or creation of a traffic hazard.

Objective 8-L seeks to: Carry out a review of strategic employment sites in the Key Towns and District Towns to support and inform the Town Development Plans and LAPs (and any review thereof).

Environment and Natural Assets

Chapter 11 seeks to protect the diverse natural landscape and services.

Section 11.3 refers to Conservation and Protection of Sites.

Section 11.4 to Water Quality and Protection

Section 11.5 Flood Risk Management

Section 11.7 to Landscape and Figure 11.1 provides a Map showing Primary and Secondary Amenity Areas and Views and Scenic Routes.

Section 11.8 refers to Noise and Light Emissions. This includes regard to the Tipperary County Council Noise Action Plan 2018-2023 prepared in line with the Environmental Noise Regulations 2018 (S.I. No 549/2018) which is aimed at the management of environmental noise. Mitigation measures are included.

The Council will consider the impact of noise emissions that may arise from such developments through the planning process, and in line with the relevant guidelines and standards for such developments. The Council recognises the need for artificial lighting as a means to contribute to a safe and secure night-time environment; however, the Council also recognises the impacts of light pollution, glare and light spillage and its impact on the visual, environmental and residential amenities of

surrounding areas, and will seek to ensure that new development does not result in significant disturbance as a result of light pollution.

Section 11.9 provides Planning Policies 11-1 to 11-19. Section 11.10 provides the Planning Objectives 11-A to 11-I.

Policy 11-18 - Ensure that new development does not result in significant noise disturbance and to ensure that all new developments are designed and constructed to minimise noise disturbance in accordance with the provisions of the Noise Action Plan 2018 and relevant standards and guidance that refer to noise management.

Policy 11-19 - Ensure that new development does not result in significant disturbance as a result of light pollution and to ensure that all new developments are designed and constructed to minimise the impact of light pollution on the visual, environmental and residential amenities of surrounding areas.

Volume 3 refers to Development Management Standards.

Section 3 refers to Low Carbon and Climate Resilient Development.

Section 3.3 to Sustainable Urban Drainage Systems and Nature Based Solutions

Section 3.5 to Lighting. This includes that new public lighting shall be installed in accordance with the Council's current Public Lighting Policy and Public Lighting Standards. Measures are to be included to provide appropriate energy efficient lighting, and to minimise light spillage and pollution through design, layout and specification.

Section 3.6 to Noise. This includes that the Council may require new commercial and industrial developments to submit a Noise Impact Assessment and appropriate mitigation measures as part of their planning application. Reference is also had to the Noise Action Plan 2018.

Section 5.1 refers to Sustainability Statement for Commercial and Employment Development. This includes regard to Section A: Form and Character i.e. the impact of the development on the surrounding residential character, how will increase in traffic be addressed and regard to a Waste Management Plan to be submitted.

Section 6.0 refers to Parking, Traffic and Road Safety. Section 6.1 to Road Design and Visibility at a Directed Access. Table 6.1 X-Distance Requirements including relative to local roads.

5.3. Natural Heritage Designations

The site is c.3kms from Lough Derg (Shannon) SPA.

5.4. EIA Screening

An Environmental Impact Assessment Screening report was not submitted with the application.

Class (10) *Infrastructure projects* (dd) of Schedule 5, Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

(dd) All private roads which would exceed 2000 metres in length.

The subject description of development includes for the retention of the access road, which as shown on the Site Layout Plan submitted is c. 200m. This access road for retention falls well below the 2000m threshold.

I have given consideration to the requirement for sub-threshold EIA. The site is located on unzoned land within the rural area. The proposed retention of this length of access road to access this backland site, will not have an adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of the landscape or of natural or cultural heritage. The proposed development would not give rise to waste, pollution or nuisances that would have a significant impact on the environment. It would not give rise to traffic hazard or a risk of major accidents or risks to human health, relative to the need for Environmental Impact Assessment.

Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 (dd) - Infrastructure Projects relative to private roads, of the Planning and Development Regulations 2001 (as amended),
- The location of the site on unserviced land, within a rural area,
- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended),

- The character and pattern of development in the vicinity,
- 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), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended).

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed retention development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case.

Reference is had to Appendix 1- Form 1 (EIA Pre-Screening) and Appendix 2 – Form 2 (EIA Preliminary Examination) attached to this Report. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

Brian England, has submitted a First Party Appeal on behalf of the applicant Paul Cahalan. This has regard to the Council's reasons for refusal and includes the following:

Connected enterprise to owner's home

- The business is connected and adjoins the business owners' home, where he resides with his partner and family at Gorteenakilla, Newtown, Nenagh.
- Documentation is submitted to prove connection of the residential address, the business site and the applicant.
- Details are given of the business operation saying that it is small scale enterprise. The main operation of the company workforce is on the client site.

The subject site is generally unmanned during most of the day, except for a loading operation undertaken by the transmix truck driver/operator.

- The owner has a requirement, similar to many small building contractors to provide a yard area to park and store work related vehicles, equipment and materials. The site activity is therefore not contrary to development in rural areas.
- Structures existing on site and as proposed are of a scale and size that are comparable with common agricultural structures. They note that bunds have been provided and landscaping is proposed to aid screening of the yard area.

HGV Movements – Clarification

- The concerns raised relating to the level of HGV related traffic associated with development are unfounded. They provide details of traffic routes to the site.
- To aid road capacity and traffic flow, proposals have been made in conjunction with a landowner to provide additional vehicle passing places in the Eastern end of the local road serving the site, to provide improved conditions.
- The alignment and availability of passing, meeting locations along the remainder of the road is already suitable.
- They provide details of the extent of HGV use/movements resulting from the proposed development.
- They do not consider that the volume of additional HGV traffic related to the operation of the business, is of a level to lead to traffic hazard or obstruction to other road users, based on current ongoing activity.

Noise

- They note the results of the detailed noise assessment that has been undertaken by Axis Environmental Services, including regard to noise limitation measures.
- The environment report concludes that noise would not be likely to have a significant effect on immediate environmental receptors (nearby dwellings).
- The use of EVs will reduce vehicle noise associated with the site operation.

Lighting

- They enclose additional information with the appeal submission to illustrate that the lighting proposal will not have an adverse impact on the environment.
- Detailed lighting design and calculations are provided by Molloy Engineering Ltd. There is no proposal to light the access road. There will be no light pollution or overflow to adjoin residences and it will comply with Tipperary CDP Policy 11-19.

Conclusion

- As a small business operation located adjacent to the family residence, the applicant has sought to diversify and improve business with the provision of a pourable floor screed operation.
- The small scale and size of the operation does not create an adverse impact on the residential environmental and rural amenity of the area.
- The low volume increase of HGV traffic associated with the development does not endanger public safety by reason of traffic hazard or obstruction to other road users.
- The noise associated with the operation of the business based on its location and low activity levels does not injure the amenities or depreciate the value of properties in the area as supported by the noise survey undertaken.
- The lighting installation as proposed will not lead to any disturbance in terms of light pollution to surrounding areas.
- They request the Board to grant permission and they consider that the development will not be contrary to the proper planning and sustainable development of the area.
- They include a number of documents in their Appendix.

6.2. Planning Authority Response

Their response to the Grounds of Appeal includes the following:

- They consider that the proposed development by virtue of its activity and size in a rural context is inappropriate and that the use would be better suited to a location on zoned lands. The applicant has not provided a robust justification for its location in a remote rural location.
- The applicant proposes passing bays to alleviate road concerns and traffic safety issues, however these are outside of the site boundary and are not enforceable. The number and types of deliveries to and from the site are wholly inappropriate in this rural setting.
- They consider that noise sensitive location 1 is not deemed to be a noise sensitive location given its location next to a bund. On this basis the Planning Authority were not satisfied with the noise report submitted.

6.3. **Observations**

None noted on file.

7.0 **Assessment**

7.1. **Policy Considerations**

- 7.1.1. The proposal was initially considered by the Planning Authority under the policies and objectives of the North Tipperary County Development Plan 2010-2016 (as varied and extended 2017 edition). This has now been superseded by the Tipperary County Development Plan 2022-2028, which was adopted in July 2022. The policies of this Plan have been quoted in the Council's reasons for refusal. The current Plan aims to guide the sustainable physical, economic and social development across Tipperary, whilst protecting the environment and guiding and supporting our move to a low-carbon society. This Plan is influenced by the Project Ireland 2040 – National Planning Framework and the Southern Regional Spatial and Economic Strategy 2020 (RES). Also as referenced in Section 2.5.5 of Volume 1 of the Tipperary CDP, it seeks to provide a strong rural economy with diverse and connected communities. This has regard to a new strategy to support the growth and development of rural Ireland: "Our Rural Future: A Rural Development Policy 2021-2025 (DRCD, 2021)".

- 7.1.2. This site is in the rural area and is not within a town or a village or on zoned land. Enterprise and Rural Development is addressed in Chapter 8 of the Tipperary CDP 2022-2028. Section 8.4.4 refers to Start-up Enterprise in the Open Countryside. This recognises that the viability of start up enterprises is often dependent on the use of a home base. Policy 8-5 relates, and this includes support for small scale facilities that would not impact adversely on the residential, environmental, and rural amenity of the area. Also, that it would be appropriate to the size of the site and designed to ensure that it does not detract from the rural settling and landscape character. Part c) notes: *Where the enterprise or activity develops to a scale that is inappropriate by virtue of activity or size in its rural context, the Council will encourage its re-location to a more suitable location on zoned land within towns and villages.*
- 7.1.3. Section 8.5 refers to Non-conforming uses and notes that the Council will support their continued operation and expansion, provided that it does not result in loss of amenity to adjoining properties, adverse impact on the environment or be visually detrimental to the area or lead to the creation of traffic hazard. Reference is also had to the Council's reason for refusal relative to traffic hazard noting the access and narrow width of the local road network and concerns about traffic safety and hazard. Objective 8-9 relates.
- 7.1.4. As has been noted in the Policy Section above Section 11.8 of the Tipperary CDP refers to Noise and Light Emissions. Policies 11.18 and 11.9 relate. These seek to ensure that new development does not result in significant noise disturbance and are designed to minimise noise and refer to noise management. Similarly, to ensure new development is designed and constructed to minimise the impact of light pollution on the visual, environmental and residential amenities of surrounding areas.
- 7.1.5. The First Party provides that the development does not have an adverse impact on the residential, environmental and rural amenity of the area, as supported through the submitted environmental report provided at planning F.I stage. Regard is had to the documentation submitted, including at Further Information stage and in the First Party Grounds of Appeal. Also, to the Council's reasons for refusal and as to how this application, considered de novo could overcome these reasons for refusal.
- 7.1.6. The issue with retention is whether the development would have been permitted in the first place, prior to the unauthorised development/use taking place. It needs to be

established whether the retention of the use currently operating from the site, including the access road and the additional development now proposed would comply with the aforementioned policies and objectives and would be considered appropriate to this site and not have a detrimental impact on the character and amenities of the proximate residential and the rural area. As to whether the retention element and the proposed development would be in the interests of the proper planning and sustainable development of the area.

7.2. Description of Development

- 7.2.1. This application proposes the retention of the access road and hard surfaced yard area, 2 no. storage silos and concrete base for aggregate structures as constructed. As shown on the Site Layout Plan, the hard surface yard area is well set back from the road and is c. 400sq.m in area. On my site visit, I noted that the 200m gated access track and all of the above are insitu to facilitate the operations on site.
- 7.2.2. Plans have been submitted to show the two existing storage silos for retention. The larger is shown 12.45m in height and 2.97m in width and is described as a '70 ton bulk silo', the shorter is shown 10.45m in height and 2.97m in width and is described as a '50 ton bulk silo'. As shown on the elevations submitted, the height of the silos includes the 1.5m 'proposed bund surround to silo base for containment'.
- 7.2.3. The Environmental Report submitted notes that the site has two silos, which hold dry cement/lime, which are located on a concrete plinth in the northeastern corner of the site. There is a hopper, a storage area for sand and gravel and a hardstand area for the storage of banded chemicals which also house a shipping container.
- 7.2.4. Permission is sought to construct a storage shed and enclosing bund to the silo base, including associated site works. The proposed storage shed is shown in a similar location to the existing 'open shed'. The plans show that it is to be 280sq.m. in floor area and 7.7m to ridge height. It is proposed to have a roller shutter door and grey cladding to roof and sides.
- 7.2.5. Currently there is open storage and container storage on the site. The F.I response notes that storage locations are detailed on the site plan. That the proposed storage shed will eliminate the requirement for independent outdoor storage facilities on site and will provide a consolidated and secure dry storage area for all materials on site,

except bulk sand, cement and lime, which are already stored within specific compound or silos. They note that waste will be stored in appropriate containers and removed from site by licenced waste collection.

- 7.2.6. The Site Layout Plan shows the structures proposed for retention outlined in pink and those proposed in green. Revision A shows proposed surfacing and drainage plan provided. On site I noted that there is a partial bund constructed along the northern and southern boundaries of the site. Drainage is discussed further in this Assessment below.

7.3. Operations and Rationale

- 7.3.1. The location of the site yard area forms a backland development, with access from the local road for an industrial/storage type use in the rural area. The development consists of a batching plant and storage silos to produce resin flood screeds. Details submitted note that Premier Screed Floor Ltd operates the supply and installation of finishes poured floor screed to the construction industry. The subject site provides the base depot for the bulk material/plant storage associated with the business.
- 7.3.2. In response to the Council's Further Information request an Environmental Report has been submitted to provide an overview of the project and proposed mitigation measures to serve to alleviate concerns in relation to the issues raised both from the objective and environmental viewpoint. The Report summarises the Environmental impacts associated with the operations and seeks to generate procedures to control and manage the impacts and to suggest a monitoring campaign going forward. It seeks to address the environmental impacts associated with the activities, products and services related to Premier Screed Floor Ltd.
- 7.3.3. Details submitted note that the business was established in 2019 and is registered with the companies registration office (CRO) and the registration no. is provided. That the Managing Director has overall responsibility for the operation of the site, including the environmental performance and the impact on the environment. The product typically consists of a sand-based cement/lime screed that is pumped on site to provide finished floor solutions for the construction industry. Various additives, including insulation can be included depending on application.

7.3.4. The site stores dry and bulk materials, including building sand, Portland cement and lime. These are filled into the purpose built transmix truck trailers for delivery to site. The truck units include mixing water and additive tanks, which are also filled onsite. Mixing takes place on route to the site depending on location. Water collected in the spill bund is to be used as mic water for the product, ensuring constant emptying of the bund. This screed is pumped through mobile pumps at the client site to the required location. That typically filled transmix trucks support vehicles leave the base at 6am for the client site and return to base for reloading late in the afternoon.

7.3.5. Operations on the proposed site are limited to:

- The filling of the transmix trucks daily by the truck driver, usually later in the afternoon, which involves the use of the excavators to load sand onto conveyor filler, generator to operate the conveyor and silo motors (under direct power supply is installed). The filling process takes approx. 20 minutes per day.
- Movements of support vehicles to site for bulk deliveries of sand, cement, lime, insulation bead and miscellaneous supplies,
- Fuel delivery to onsite storage tank by fuel supplier, approx. every 3 weeks.

They note that the site is only manned during the above operational times.

Maintenance and refuelling of road based vehicles take place off site. At the time of my site visit there were no operations or personal onsite.

7.3.6. A Site Inventory is provided in tabular form in Section 2.4 of the Environmental Report, and includes details the type of materials stored, which include cement, lime, sand, diesel and insulation beads. Details are also given of the storage method and recommended storage controls. This section also includes a table listing the vehicle types, no. of units, maximum load and recommended controls.

7.3.7. Details are provided of an Environmental Management System (EMS) to be implemented. This includes regard to Infrastructure and Operation and notes preventative maintenance measures. Regard is had to bunds/tanks, spill kits, silt and oil interceptor, fuel storage, control and monitoring including of emissions.

7.3.8. The Environmental Sensitivity of the site is discussed. Regard is had to the Noise and Lighting Assessments and to proposed dust mitigation measures below.

7.4. Start-up Enterprise in the Open Countryside

- 7.4.1. The Council's first reason for refusal is concerned that the proposal would not comply with Policy 8-5 of the Tipperary CDP 2022-2028 to support and facilitate small scale start-up rural enterprise in the countryside within and/or adjoining the owner's home where development does not have an adverse impact on the residential environmental and rural amenity of the area and does not detract from the rural setting and landscape character of the area. This notes that the proposed development is not located within and /or adjoining the owner's home.
- 7.4.2. The Environmental Report submitted with the application provides that the site is located to the rear of a residential dwelling which is owned by the applicant, Paul Cahalan. The yard which is the subject of planning retention is accessed via an access road which bounds the west side of the applicant's property (post code provided). The access road measures 200m in length and approx. 5m in width and opens into a large rectangular shaped yard. The entire site occupies an area of approx. 0.628m.
- 7.4.3. This is reiterated in the Grounds of Appeal which notes that the business is connected and adjoins the business owner's home where the applicant resides with his family, the address and post code are given. Documentation is submitted to prove connection of the residential address, the business site and the applicant.
- 7.4.4. Details submitted provide that the business operation is a small-scale micro enterprise, that has developed from the owners long established trade profession of plastering and flooring contractor. The site is used as a depot/base and there is minimal daily on-site activity. The business operation is to load the aggregate materials required for pourable floor creed into the transmix trucks for transportation and installation onto a client site. That there is no customer draw activity to the subject site. The main operation of the company workforce is on the client site. That the subject site is generally unmanned during most of the day, except for the loading operation undertaken by the transmix truck driver/operator.
- 7.4.5. It is submitted in the appeal that the owner has a requirement similar to many small building contractors to provide a yard area to park and store work related vehicles, equipment and materials. They consider that the site activity is therefore not contrary to development in rural areas. They provide that the development does not have an

adverse impact on the residential environment and rural amenity of the area, as supported through the submitted environmental report provided at planning F.I stage. That the structures existing on site and as proposed are of a scale and size that are comparable with common agricultural structures. That the development has been located distant from the nearest dwellings houses. Additional bund formation, tree screening and landscaping is proposed to aid screening.

7.4.6. Having regard to the site description and to the development as described in the Environmental Report submitted and seeing the scale of the yard area and nature of the development proposed and for retention onsite, I would be concerned that the development/operations located on this backland site, with the access route proximate to residential properties, would not fit into the criteria for a small-scale start-up type enterprise, and is not related to domestic use. That it would not fit into the description of a Start-up Enterprise in the Open Countryside, as provided in Section 8.4.4 and would be contrary to Policy 8-5 of the Tipperary CDP 2022-2028.

7.4.7. I note that Section 8.4.4. provides: *Furthermore, if the enterprise needs to expand significantly and has no operational need to be located in a rural area, it will be expected to locate to a settlement with the appropriate level of infrastructure and services.* I would note that it is provided that the applicant has been unsuccessful in finding alternative more suitable sites within an urban setting for his purposes. A letter from a local estate agent has been submitted on this behalf. However, I would consider that it has not been demonstrated considering the scale and nature of the operations, that this use could not operate more efficiently on appropriately zoned land within an urban area. It has not been established that the proposed retention development needs to operate in the rural area or is site specific. It is not related to agriculture nor site dependant on being located within this rural area. As, has been noted in the Environmental Manual submitted, Premier Screed Ltd. was established in 2019, therefore it is not a long established non-conforming use.

7.5. Access and Roads

7.5.1. The Council's second reason for refusal is related to the limited capacity of the narrow roads network to accommodate HGVs and other vehicular traffic associated with the operations and usage of the site.

- 7.5.2. The access to the site is existing and appears to have been established under Reg.Ref.16/601043, where permission was granted subject to conditions by the Council for the provision of an agricultural entrance including associated site works. The current description of development does not include for change in the use of the permitted agricultural access to serve the commercial/industrial operations of this site. This access does not serve agricultural development. That permission did not include the access road to the yard area which is now the subject of retention.
- 7.5.3. The site is accessed from the local road via an unbound access road c.200m in length that runs from a gated access to the public road, between two houses that are not part of the planning application. The area of the public road in front of the site and that of the bungalow on the opposite side of the road has been setback and widened so as to allow for passing on the public road. This also facilitates vehicles accessing for operational usage of the subject site.
- 7.5.4. Section 6 of Volume 3 of the CDP 2022-2028 refers to 'Parking, Traffic and Road Safety'. This sets out entrance visibility parameters. Table 6.1 provides the 'X-Distance Requirements'. This setback is 4.5m for Local Roads including for Commercial/Agricultural or Other. Whereas it is 2.4m for a domestic rural access. Table 6.2 shows the 'Design Speeds and associated Y-Distance'. I would note that the site is not within the urban speed limits, or a restricted speed limit area.
- 7.5.5. It is noted that the District Engineer had some concerns about access and traffic. They noted that the local secondary road (L-6054-0) is 3m in width. That 70m sightlines in either direction are required. They refer to the current CDP requirements. They noted the narrow width of the road (c.3m) and the lack of passing bays along the road making the road unsuitable for a commercial development. In addition, that the boundary walls on the properties on either side of the access road have been set back by over 3.5m and the space filled with subbase. That this provides good sightlines and vehicles can access the site without creating a road safety hazard.
- 7.5.6. The District Engineer notes that the impact that the development has on the roads system is very dependent on the scale of the operation. They note that the development requires the delivery of bulk materials such as concrete, sand and chemical additives. That the access road to the batching yard has a subbase

surface. That this is acceptable for a farm entrance but not for a commercial activity. In addition, that vehicles using this lane will create a dust hazard for the properties on either side of the lane.

7.5.7. As part of the Council's F.I request the applicants were requested to provide details on the following:

- Number of vehicles that access and egress the site on a daily basis including delivery of bulk materials
- Approximate tonnage of materials delivered to and from the site on a weekly basis.
- Proposals for a dust suppression system on the access road to the development.
- Proposals to provide a number of passing bays on the L-6050 local secondary road.

7.5.8. The F.I response includes details on Vehicle Movements by staff and operations and this includes works vehicles. Details are given noting a maximum vehicle movements by staff and operations and for support & supply per day. Regard is also had to movements per day for material supply and miscellaneous deliveries. Note is had of Materials Storage on the subject site/yard area and of deliveries needed relevant to this issue. They provide that Premier Floor Screed Ltd., is currently operating from the site, without any issue or effect on the local road network. That traffic flow is predominantly directed towards Nenagh/M7 Junction 26 SE/E. That the road capacity in this direction is currently serving the development operation.

7.5.9. Section 2 of the Grounds of Appeal provides further clarification on HGV movements relative to the existing and proposed and consider that they are low level. That the Council's concerns relating to the HGV related traffic associated with the development are unfounded.

7.5.10. A Road Assessment has been made relative to the proposed usage of the L-6050. This notes that the subject development and transport activities associated with its operation utilises a section of the L-6050 public road East of the site towards the Hogans Pass/Nenagh Junction. That over this section there are a number of existing vehicles passing locations. It is proposed to provide 2 additional passing bays at the

eastern most end of this road section. They provide that with the provision of the new passing bays and the existing passing bays, there will be a vehicle meeting/passing point opportunity available at than 150m distance in any part of this road section.

7.5.11. The F.I response included proposals for the provision of 2 additional vehicle passing bays at locations outlined. Written consent is provided from the landowners concerned, where the proposed works are to be undertaken. The Council's Road's Engineer notes that the volume of traffic outlined to use the development site is low and they have no objections to the installation of two additional passing bays to the east of the site to assist with the general flow of traffic on the approach road to the site. They also provide that the applicant should be conditioned to implement a one-way system for vehicles accessing the site on the L6050 and erect signage, to reduce conflict with oncoming traffic. They do not object to the proposal, which includes for the passing bays and the one-way system as submitted at F.I stage.

7.5.12. However, it is noted that, there is no control of these passing areas and relative to planning conditions they are not enforceable as they are outside the redline boundaries and not within the ownership of the subject site. I would also note that the adjoining accommodation roads in the vicinity are narrow, too narrow for two vehicles to pass, so I would be concerned that the proposal would lead to additional traffic including HGVs using the substandard local road network. In this respect I would consider that it could not be ruled out that the proposed development and that for retention would not lead to traffic hazard and would not comply with Policies 8-5 (small scale start-up) and 8-9 (non-conforming but long-established uses – which refers to the creation of traffic hazard) of Vol. 1 of the Tipperary CDP 2022-2028.

7.6. Noise Management

7.6.1. The Council's third reason for refusal is concerned with insufficient information being provided to enable a thorough assessment on noise. They refer to noise management and consider that the proposal by reason of its nature and proximity to residential dwellings and the location of the access would seriously injure the amenity of these properties and be contrary to Policy 11-18 which refers to noise disturbance and the provisions of the Noise Action Plan 2018.

- 7.6.2. In response to the Council's F.I request an Environmental Noise Report Noise Survey 2022, has been submitted by Axis Environmental Services (Appendix B refers). The purpose of this survey was to monitor daytime noise at 3no. predetermined locations and assess the site compliance against NG4 limits set out by the EPA. Details are given of these locations (Figure 3.1 refers), providing that NSL1 would be classified as a noise sensitive location due to it being in close proximity to a residential dwelling. Noting that NP2 and NP3 would not be classified as noise sensitive locations as per definition in the licence of EPA guidance. They provide that the survey was carried out in accordance with current guidelines. NP2 and N3 are in the northeastern part of the yard area, proximate to the operations and NSL1 is located further to the southeast, situated on the boundary of a residential dwelling and the Premier Floor Screed southern boundary. The monitoring point was 120m from the truck loading. Details are given of the survey carried out relative to each of the noise sensitive locations.
- 7.6.3. The Noise Survey notes that all operations at Premier Screed Floor were running as normal on the day of the survey. That the noise assessment of the operations of the site has been undertaken, when loading/unloading operations were being completed and accounted for noise at the boundary of the closest residence or noise sensitive location. This included the operation of a generator. That this process only happens for 20 minutes a day and then the site is left vacant which the mobile screed factory goes to site and is poured.
- 7.6.4. Section 4 provides a Summary of Noise Measurements carried out during the short operational phase of the subject site. Details are also provided in the Tables provided of the Broadband Measurements and a Tonal Assessment relative to each of the noise sensitive locations.
- 7.6.5. Section 5 noted the following Conclusions:
- Two monitoring locations in close proximity to operations on site and one noise sensitive location was surveyed for broadband and 1/3rd octave frequency as part of this environmental noise survey at Premier Floor Screed.
 - The noise sensitive locations were monitored for a defined three 15 minute periods during the day time surveys.

- The findings of the survey would indicate that the noise sensitive location was not significantly affected or impacted by sources of noise at Premier Floor Screed.
- Premier Floor Screed was audible at the nearest noise sensitive location when the generators, conveyors and digger was running. This in general only runs for 20 minutes.
- There was no tonal or impulsive noise determined at any monitoring location; therefore, there are no requirements to apply penalties to the broadband measurement.

7.6.6. This notes that the results indicated that the LAeq during the 30minute survey was 46d BA and were lower than the recommended daytime limit as specified under EPA guidance. That there were not clearly audible tonal or impulsive components noted at the noise sensitive locations.

7.6.7. The Council's Environment Section is of the opinion that the Noise Report along with the conclusions drawn has adequately and competently addressed potential noise impacts emanating from the development. They noted the noise standards adopted. In addition, that the closest NSL in the area is that located to the front of the site. That the specialist has used the NSL's site boundary location rather than the dwelling itself on which to assess noise limits i.e 45/55 d BA (Laeq). They provide that this is a conservative approach as it means that the specialist has not only taken into account the potential impacts befalling the occupants of the nearest dwelling but also considers the impacts befalling the dwelling-site as well i.e amenity value. That it should also be noted that as well as considering average noise levels (Laeq), the specialist has also assessed the tonal/broadband element of the potential noise by carrying out 1/3 octave band analysis (as per NG4). In conclusion they provide that they are satisfied with the findings of the Noise Report which in summary determines that (a) any potential noise impacts would not likely contravene any 55d BA noise limit at the NSL boundary, were such a limit put in place and (b) the analysed noise impacts did not reveal any tonal or impulsive feature which would signify a breach of a typical Noise Limit condition. They provide examples of such a condition.

7.6.8. The Planner's Report had regard to the Noise Report submitted and their Appraisal noted some concerns regarding the findings. They provided that noise sensitive

location 1 is not deemed to be a noise sensitive location given its location next to the bund. They note that Figure 4.1 of the Noise Report shows noise levels exceeding 70dBA. This appears to coincide with truck loading activities. They provide that notwithstanding the fact that the noise report concludes the noise levels are below the EPA recommended daytime levels that they have concerns with regard to the impact on residential amenity.

- 7.6.9. The First Party note that a detailed noise assessment was undertaken as part of the overall environmental assessment. That the results for noise at 46d BA was lower than the recommended daytime limits. They provide that additional noise mitigation measures outlined in the Environmental Plan (Section 3), propose limiting the use of Machinery and Vehicles to Daytime Hours (07.00 -19.00). They note that upon connection to a mains grid supply, the use of the diesel-powered generator will be removed from the operation, with quieter electrical powered operation of silo augers and conveyor.
- 7.6.10. The Environmental Report concludes that noise would not likely have a significant effect on immediate environmental receptors (nearby dwellings). That the operation of the site will result in a significantly less noise level and duration, than that from agricultural farmyard operations in rural areas. That as part of overall carbon reduction requirement in the construction/transport sector, they will be moving to the use of electric vehicles as the vehicle fleet is upgraded. That the use of EVs will reduce vehicle noise associated with the site operation.
- 7.6.11. I would consider that having regard to the nature of the operations as outlined in the documentation submitted including the Noise Report, and noting the fact that the noise is not continuous, there is still the issue that the scale and nature of the operations does at times generate noise above ambient noise. That this is related to the industrial type operations including traffic associated with the site and is not a type of noise that would generally be associated with the open countryside. There is also the issue that the access road and associated traffic (while stated to be of low frequency) is proximate (within 10m) of the dwellings on either side. Therefore, I am not convinced that Policy 11-18 of the Tipperary CDP 2022-2028 and the Council's Reason no.3, relative to significant noise disturbance has been overcome.

7.7. Light Pollution

- 7.7.1. The Council's fourth reason for refusal is concerned that insufficient information has been provided to enable a thorough assessment of the environmental impacts to ensure that the proposal does not result in light pollution and to minimise the impact on the visual, environmental and residential amenities of the surrounding areas. That by reason of the nature and proximity of the proposed industrial facility and associated access between two dwellings, would seriously injure the amenities or depreciate the value of property in the vicinity by reason of scale, lighting and general disturbance.
- 7.7.2. The F.I submission provides that site lighting will be provided with cowled down lights to reduce light spill. Mitigation measure to restrict use of lighting to natural daylight hours of (07.00 – 19.00). Lighting installation is to be designed and installed to current standards.
- 7.7.3. The First Party Appeal includes additional information to illustrate that the lighting proposal will not have an adverse impact on the environment. They also submit that detailed lighting design and calculations are provided by Molloy Engineering Ltd. Lighting design and installation consultants. The proposal provides for a demand use only format lighting on site, which will provide the minimum required lighting levels to serve specific areas of the site, i.e. works areas, parking areas. That there is no proposal to light the access road. Details provide that the intension is to run these lights on an on-demand basis, as the site is mainly unoccupied, save for truck loading in the morning and evening. That the light classes selected are the minimum required to safely carry out this type of work. There will be no light pollution or overflow to adjoin residences and they consider that this will comply with Tipperary CDP Policy 11-19.
- 7.7.4. However, I would consider that the issue again is whether the scale and nature of the operations, which includes the proposed lighting, is considered to be appropriate to the rural area.

7.8. Other Considerations

Dust Control Measures

- 7.8.1. The proximity of residential to the access road has been noted. As part of the Council's F.I request the applicant was requested to submit details of measures to control dust emissions. The F.I response noted that mitigation measures are proposed to control dust associated with vehicle movements. They proposed to provide a concrete surface to the yard and access road, which they submit will reduce the amount of dust generated from the current unbound surfaces. That a dust suppression system will be incorporated along the access road for use during periods of dry weather, the trafficked surfaces will be controlled with dust suppression spraying by water bowser/spray bar unit as required. They also provide that screening in the form of native hedging or trees will be planted on either side of the access road.
- 7.8.2. The Nenagh District Engineer noted that the applicant is proposing to upgrade the unbound access road into the development with a concrete road to reduce dust levels and had no objections to this proposal.

Drainage issues

- 7.8.3. As part of the F.I request the applicant was asked to submit, for the consideration of the Planning Authority details of surface water drainage for the site, including but not limited to details of treatment, disposal locations and rates etc.
- 7.8.4. The F.I response notes that surface water drainage details are provided within the revised site plan. Clean roof water will be directed to ground via internal site soakaway. General yard area drainage will be directed to gully's and piped to a Class 2 bypass petrol/oil interceptor, based on risk associated with site operation. The separator will be designed and sized in accordance with EN858-1: 2002, for the yard area of 3000sq.m., providing a flow capacity of 61/s and an oil storage capacity of 901.
- 7.8.5. The Environmental Report submitted as part of the F.I notes that there is a drain located to the north of the subject site. The Site Plan notes the location of the open drain along the northern boundary. A soil berm is in place which isolates the site activities from the drain. They note that it is unclear whether there was any flow in the drain at the time of the visit as it was inaccessible and overgrown of the day of the visit. That also it was unclear where this drain ultimately discharges. On my site visit I noted this lack of clarity/accessibility in view of the location of the berm along

the northern site boundary and the vegetation in this area of the site. Figure 2.3 of the Environmental Report provides a map showing drainage in the area.

- 7.8.6. The Environmental Report notes that the groundwater vulnerability of the site is classed as extreme to Karst at the northeastern corner of the site. It also notes that the site is not part of any Groundwater Drinking Water Protection Area, however it is a locally important aquifer as it supplies a number of boreholes located within a 50-1km radius of the site.

7.9. Concluding Considerations

- 7.9.1. Section 3 of the Environmental Report provides the Mitigation Measures relevant to the issues raised. This is provided in tabular format and in summary relates to Noise from loading/unloading, from traffic accessing the site; Storage of Cement/Lime/Cement and Sand; Storage of Fuel, of other oils/chemicals etc; Loading/unloading activities, traffic movements on site; Surface water run off; and Lighting. They conclude that following the completion of their environmental assessment of the site and given the mitigation measures proposed are implemented, it is anticipated that the project, would not be likely to have a significant effect on immediate environmental receptors.
- 7.9.2. However, having regard to the documentation submitted, including the Environmental Report and the mitigation measures put forward in Section 3 and in First Party Grounds of Appeal, I would consider that it has not been justified as to why it is necessary for this development to be retained and expanded relative to the further development proposed on the subject backland site in the open countryside, close to residential development, and with accessibility issues relative to the narrow local roads network. Part of the development is for retention and part involves further expansion and management of the activities on the site. While the works proposed would be an improvement on the current haphazard arrangement for the operations on site, I would have concerns about the scale and nature of the development for retention and that proposed. That it would not comply with what is envisaged as start-up enterprise in the open countryside in section 8.4.4 or Policy 8-5 of the Tipperary County Development Plan 2022-2028. Also, that it would not comply with Section 8-5 and Policy 8-9 relative to the criteria for long established non-conforming

uses, of the said Plan including relative to creation of traffic hazard. That in the interests of proper planning and sustainable development, and compliance with planning policy this type of development would be better located on appropriately zoned land in an urban area.

8.0 AA Screening

- 8.1.1. I have considered the development proposed for retention and that proposed in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.1.2. The subject site is located in Gorteenakilla, Newtown, Nenagh, Co. Tipperary. The site is not located on any designated Natura 2000 sites (s), with the nearest Natura 2000 sites being Lough Derg (Shannon SPA) sites c. 3kms from the subject site. The proposed development comprises:
- The Retention of the access road and hard surfaced yard area, 2no. storage silos and concrete base for aggregate storage, as constructed.
 - Permission is sought to construct a storage shed and enclosing bund to the silo base, including associated site works.

No nature conservation concerns were raised in the planning appeal.

- 8.1.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- The nature and scale of the development
 - The location-distance from nearest European site and lack of connections
 - I have taken into account the AA screening determination by the PA which determined that the proposed development is not likely to give rise to adverse impact on the qualifying interests and conservation objectives of any nearby Natura 2000 sites.
- 8.1.4. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and

therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that permission and retention permission be refused for the reasons and considerations below.

10.0 Reasons and Considerations

1. Having regard to the location of the site in the rural area on unzoned and unserviced land outside of a designated settlement, and to the nature and scale of the industrial type operations on the site, it is considered that it has not been satisfactorily demonstrated in the documentation submitted with the application and the appeal, that the retention of and the proposed development on the site would constitute a small scale rural enterprise or that it would not be more appropriately suited to zoned land within towns or villages. As such the proposed retention would not comply with Section 8.4.4. and Policy 8-5 (Start-up Enterprise in the Open Countryside) of the Tipperary County Development Plan 2022. It would therefore, be contrary to the proper planning and sustainable development of the area.
2. It has not been established that this is a long established non-conforming use that would not result in loss of amenity to adjoining properties, adverse impact on the environment, visual detriment to the area or the creation of traffic hazard. As such and in particular in view of the narrow rural road network in the area to serve the development, it would be contrary to Section 8.5 and Policy 8-9 of the Tipperary County Development Plan 2022. It would therefore, be contrary to the proper planning and sustainable development of the area.

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.

Angela Brereton
Planning Inspector

25th of July 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317606-23		
Proposed Development Summary	Retention of access road and hard surfaced yard, 2no. storage silos and concrete base for aggregate storage as constructed and permission to construct a storage shed and enclosing bund to silo base including associated site works.		
Development Address	Gorteenakilla, Newtown, Nenagh, Co. Tipperary		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class 10(dd) Schedule 5 Part 2	EIA Mandatory EIAR required
No	✓	Below Threshold	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes	✓	Class 10(dd) Schedule 5 Part 2	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Appendix 2 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-317606-23	
Proposed Development Summary	Retention of access road and hard surfaced yard, 2no. storage silos and concrete base for aggregate storage as constructed and permission to construct a storage shed and enclosing bund to silo base including associated site works.	
Development Address	Gorteenakilla, Newtown, Nenagh, Co. Tipperary	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development is to include the retention of the 200m access road from the public road to the site.</p> <p>The proposed development is to include surface water drainage. As per the documentation submitted, including regard to the Environmental Report it will not result in significant emissions or pollutants.</p>	<p>No</p> <p>No</p>
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>This proposal includes the retention of an access road which leads to the yard area and is 200m in length. This is sub-threshold and is well below the 2000m as per Class 10(dd) of Schedule 5 of Part 2 of the Planning and Development Regulations 2001 (as amended).</p> <p>Please refer to the Planning History Section of this Report. No significant cumulative considerations</p>	<p>No</p> <p>No</p>
<p>Location of the Development</p> <p>Is the proposed development located on, in,</p>		No

<p>adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The development for retention and as proposed does not have the potential to significantly impact on an ecologically sensitive site or location.</p> <p>No – See the Environmental Report submitted.</p>	<p>No</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A information required to enable a Screening Determination to be carried out.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p>

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)