



An
Bord
Pleanála

Inspector's Report

ABP-318397-23

Development	Importation of inert material to improve agricultural land and associated works
Location	Cratloemoyle, Cratloe, County Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	23/60364
Applicant(s)	Kieran Kelly Haulage Ltd.
Type of Application	Planning Permission
Planning Authority Decision	Notification to Grant
Type of Appeal	Third Party
Appellant(s)	Mr. Stephen Nugent
Observer(s)	None
Date of Site Inspection	2 nd April 2024
Inspector	Gary Farrelly

1.0 Site Location and Description

- 1.1. The subject site is located within the rural townland of Cratloemoyle, County Clare, which is located approximately 2km east of the village of Cratloe and approximately 2.5km west of the county boundary with Limerick. The site comprises of a proposed fill area of 2.31 hectares within a larger agricultural field and an approximately 500-metre-long existing access road taken off the public road L-3102. This existing entrance and access road also serves a farmyard next to the boundary with the public road.
- 1.2. A Radisson Blu Hotel is located approximately 500 metres south of the proposed fill area and an industrial unit, occupied by ABC Nutritional Limited, is located approximately 300 metres southwest of the proposed fill area.
- 1.3. The proposed fill area is bounded by the Limerick-Ennis railway line to the north, low lying agricultural lands to the east, beyond which is the Cratloe Stream, and further agricultural lands to the west and south. A residential dwelling bounds the southwest corner of the fill area. The lands to the east of the proposed fill area are located within a flood zone and are designated as wetland indicating sediments (*source: wetland surveys Ireland*).
- 1.4. The topography of the wider field ranges from 19mAOD within the northwest corner to 5mAOD to the west of the proposed fill area.

2.0 Proposed Development

- 2.1. The proposal seeks to import approximately 104,000 tonnes (80,000m³) of inert soil and stone material into a proposed fill area of 2.31 hectares. The maximum importation in any one year will be 20,800 tonnes (20,000m³). The lands are proposed to be raised on average by a depth of 3.8 metres, with a maximum depth fill of 6.2 metres. The fill is intended to take place over a 5-year period.
- 2.2. The proposed development also seeks to relocate and close up the existing entrance to the subject lands with a new access to be located approximately 34 metres to the west of the existing entrance. It is proposed to remove approximately 10 metres of roadside hedgerow to accommodate the entrance and further hedgerow/sod bank will be removed to the west and southeast of the entrance to ensure adequate sightlines.

3.0 Planning Authority Decision

3.1. Decision

Clare County Council (The Planning Authority) decided to grant permission by Order dated 1st November 2023, subject to 9 conditions;

- Condition 1(c) restricts the development to no more than 20,000m³ of inert material per annum.
- Condition 2 relates to operational hours of 08:00 to 18:00 Mondays to Saturdays with no works to take place on Sundays or public holidays. All roads are required to be maintained free from dirt and debris.
- Condition 3(c) requires the implementation of the submitted traffic management plan in full.
- Condition 4 relates to the installation and use of a wheel wash facility.
- Condition 6 relates to the reinstatement plan to be agreed in writing with the planning authority.
- Conditions 7 and 8 relate to the surveying of the condition of the local road network and reinstatement of any defects.
- Condition 9 relates to the payment of a financial contribution.

3.2. Planning Authority Reports

Planning Report

The area planner's report assessed the development against the relevant development plan objectives within the development plan, the principle of the development, traffic safety issues, the impact on the road network, public health, visual amenities, residential amenities, flood risk and screened the development for appropriate assessment and environmental impact assessment. The report recommended a grant of permission which was endorsed by the Senior Executive Planner.

Other Technical Reports

Road Design (report dated 25/10/23) – They had no objection to the development. They noted that 160 metre sightlines were not achievable from a site inspection, however, were satisfied to apply a relaxation of one step below the desirable minimum as outlined in DN-GEO-3031 due to the alignment of the local road. They noted that 120 metre sight stopping distances were achieved in both directions.

3.3. Prescribed Bodies

- Uisce Éireann – They had no objection to the development subject to conditions.

3.4. Third Party Observations

A single third-party observation was received by the planning authority by Mr. Stephen Nugent who objected to the development. Many of the concerns were in relation to the standard of the road network, the hours of operation, the length of time of the works and traffic safety implications of the development.

4.0 Planning History

Subject Site

PA ref. 22/533

Kieran Kelly Haulage Ltd sought permission to import inert fill to improve agricultural lands and was refused permission. The single reason for refusal was that the PA considered that the development would endanger public safety by reason of a traffic hazard due to the horizontal alignment of the road, restricted sightlines and uncertainty regarding the intensity of traffic movements.

PA ref. 20/85

Kieran Kelly Haulage Ltd sought permission to import inert fill to improve agricultural lands and was refused permission. The 3 no. reasons for refusal were in relation to concerns of pollution to groundwater and surface water, adversely impacting a European Site, concerns in relation to traffic safety and concerns regarding flooding.

Adjoining site to the south of proposed fill area (separate field)

PA ref. 14/446 / ABP 243992

John White was granted permission to fill and raise agricultural lands using clean inert construction and demolition waste, soil and subsoil, totalling 36,000 tonnes. These works have been completed with the lands graded and seeded. The appeal to the Board related to a financial contribution.

5.0 Policy Context

5.1. Development Plan

Clare County Development Plan 2023-2029

Objective CDP 11.36 Waste Transfer and Recovery Facilities

a) To support the development of waste transfer and recovery facilities at appropriate locations in County Clare as a means of facilitating a reduction in the quantity of waste that goes to landfill disposal sites.

Objective CDP 11.38 Construction and Demolition Waste

c) To encourage the development of C&D waste recycling facilities at suitable sites, including quarries, subject to normal planning and environmental considerations.

Objective CDP 15.19 Woodlands, Trees and Hedgerows

g) Where hedgerows are required to be removed in the interests of traffic safety or where breaches to hedgerows occur due to river drainage/maintenance works and flood repair, to require the applicant/developer to reinstate the hedgerows with a suitable replacement of native species to the satisfaction of the Council.

5.2. National Policy

- Project Ireland 2040 – National Planning Framework (2018) and National Development Plan 2021-2030
- A Waste Action Plan for a Circular Economy, Ireland's National Waste Policy 2020-2025
- Climate Action Plan 2024

5.3. Regional Policy

- Regional Spatial and Economic Strategy for the Southern Region

5.4. National Guidance

- Transport Infrastructure Ireland Rural Road Link Design (2017) (Document DN-GEO-03031)

5.5. Natural Heritage Designations

The subject site is not located within any designated site. The nearest designated sites are the River Shannon and River Fergus Estuaries Special Protection Area (SPA) (Site Code 004077) and the Lower River Shannon Special Area of Conservation (SAC) (Site Code 002165) which are located approximately 750 metres south of the site. This is also designated as a proposed natural heritage area (pNHA) (Fergus Estuary and Inner Shannon, North Shore). The Cratloe stream is located approximately 80 metres to the east of the site and this discharges to the River Shannon approximately 1.5km downstream.

5.6. Environmental Impact Assessment (EIA) Screening

Having regard to the nature, size and location of the proposed development, comprising the infilling of agricultural land with clean inert material, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Refer to Appendix 1 regarding this preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was lodged on 7th November 2023 by Mr. Stephen Nugent. The grounds of appeal are summarised as follows:

- There is an objection to the 5 year duration of the permission due to the traffic implications and a request is made to limit the permission to 1 year only.
- The HGV traffic will be a nuisance to this residential area as well as a traffic safety concern and it is requested for no operation on Saturdays.
- The installation of warning signs is not a traffic management plan. The access road to the site is not wide enough to allow two passing vehicles. The proposed signs will not be enough to avoid truck movement danger on the narrow roads in the wider road network. The wider road network is too narrow and the submitted site entrance layout does not go far enough to demonstrate the impact on the road network.
- The permission does not permit trucks from coming in from the west side of the entrance which would pass a national school and through a narrow level crossing. It is requested that no large truck arrives to and departs from the site in a westerly direction.
- A question is raised regarding the amount of waste that will be imported to the site as the waste facility permit erected onsite requests permission to unload 200,000 tonnes of excavation or dredge soil and inert waste of up to 50,000 tonnes. The planning permission states that no more than 20,000 tonnes will be imported to the site per year. A photograph is provided of the waste facility permit erected.
- The cumulative impact with the commercial vehicles from the large new ABC nutritional facility down the road from the site should have been assessed and not dismissed by the planning authority.
- It is stated that the speed limit adjacent to the site in both directions is 50kph and no residents ever drive 80kph due to traffic safety. The statement that traffic sightlines would be allowed one step below the desirable minimum is not acceptable. The speed limit should be 50kph.
- A number of photographs are provided illustrating the road network in the vicinity of the site.

6.2. Applicant Response

The Applicant issued a response to the grounds of appeal on 4th December 2023. The response is summarised as follows:

- Limiting the site to a 1 year/20,000 tonnes of fill would not be sufficient to improve the agricultural output of the field which is the purpose of the proposed development.
- Limiting the permission to 1 year assumes a regular supply of suitable fill material, however, the desire is to aid the disposal of suitable material from works being undertaken in the surrounding area and the preference is not to draw material from greater distances.
- The delivery rate with a maximum of 5 loads per day is appropriate.
- The applicant is willing to accept reduced hours of operation on Saturdays (08:00 to 13:00). Condition 2(a) prohibits any activity on Sundays or national holidays.
- As outlined in the preliminary operational traffic management plan submitted with the application, the applicant will avoid deliveries to the site at peak traffic movements which are 08.30-09.30am and 16.00-17.30pm.
- The traffic management plan addresses the number of truck movements to the site, the hours of operation and peak hours to be avoided, the proposed haul route, proposals for minimising material entering the local road network and proposals for managing any structural damage to the local road network.
- No trucks associated with the development will access the site via the L-3012 from the west or from the east of the junction with the L-3112. Condition number 3(c) confirms the haul route.
- The site notice for the waste facility permit is a standard template and specifies the maximum tonnage which can be sought. The tonnage applied for is actually only 120,000 tonnes.
- The applicant has no control over other traffic using the local road or regarding pedestrian safety at the hotel.

- After refusal ref. 22/533 the applicant engaged with the road design office and moved the entrance location so as to achieve better sight distance from the existing entrance. A relaxation of the sight distance is permitted as the speed limit achievable is less than 80kph, one step below the desirable minimum as outlined in Table 1.3 of DN-GEO-03031.
- The development for a 5 year period is not expected to result in any significant deterioration of the local roads given the expected frequency of HGV trips when compared with standard agricultural activities.
- All HGV traffic exiting the site will use a wheel wash and the public roadway will be kept clean under condition no. 2(b).
- The applicant confirms satisfaction with condition nos. 7 and 8 of the decision to grant permission.
- The applicant requests the Board to uphold the planning authority's decision to grant permission.

6.3. Planning Authority Response

The Planning Authority did not issue a response to the third party's grounds of appeal.

7.0 Assessment

- 7.1. The Board should note that this application is the third application submitted for the importation of material to the subject site, after ref. 22/533 and ref. 20/85 were refused by the planning authority. In response to the most recent refusal, the applicant has relocated the proposed access off the public road to approximately 30 metres to the west of the existing access point.
- 7.2. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the planning authority and having inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the substantive issue in this appeal to be considered relates to the following:
- Principle of the Development
 - Traffic Safety
 - Other Issues

Principle of the development

- 7.3. It is stated that the proposed development involves the importation of inert soil and stone material in order to improve the agricultural output of the land and to provide a recovery site for excavated soil and stone which are in shortfall. The proposal seeks to import a total of 104,000 tonnes over a 5-year period with a maximum importation of 20,800 tonnes in any one year.
- 7.4. I note that the planning authority has stated that the wetland to the east of the proposed fill area is located within flood zones A and B, however, having reviewed the OPW Flood Maps and Map Ref. I12 of Volume 2 of the Clare County Development Plan 2022-2028 (CDP), it is my view that this area is located within flood zone B. Notwithstanding this, the Board should note that the location of the proposed fill area is outside both flood zones A and B, and having regard to the nature and location of the development, I consider that it would not increase the risk of flooding elsewhere.
- 7.5. The average depth of the fill across the site will be 3.8 metres with a maximum depth of 6.2 metres. After completion, the area will be topsoiled, cultivated and reseeded to bring the area into improved agricultural use. Having reviewed the CDP, I note that

there are no designated views or prospects within the vicinity of the site. Having regard to the nature of the development, to the submitted section drawings, to the topography of the site and surrounding fields and to the proposed retention of hedgerows and trees around the fill area, I am satisfied that the development would not result in an adverse impact on the visual amenity of the area.

- 7.6. I consider that the proposed development will comply with objectives CDP 11.36(a) and CDP 11.38(c) of the Clare County Development Plan 2023-2029 which seek to support and encourage the development of waste facilities at suitable sites in order to reduce the quantity of waste that goes to landfill.
- 7.7. Having regard to the above, I consider that the proposed development is acceptable in principle, subject to my assessment below.

Traffic Safety

Proposed Entrance

- 7.8. The existing entrance off the public road is proposed to be closed up and moved approximately 30 metres west in order to achieve sight distances of 120 metres in both directions.
- 7.9. I note the report from the Road Design Office of the planning authority (PA) who applied a relaxation of the minimum sight stopping distance one step below the desirable minimum having regard to Transport Infrastructure Ireland (TII) document DN-GEO-03031.
- 7.10. Having inspected the site, I observed that a speed limit of 80kph (design speed of 85kph) was not achievable at this location due to the horizontal alignment of the road. I also note the Appellant's comments in this regard. Having regard to this, to the closing up of the existing entrance, to the low level of existing frontage access in this area (the nearest being a residential access 100 metres west of the proposed entrance) and to the standard warning signs proposed as part of a development of this nature, I am satisfied that a relaxation below the desirable minimum can occur in accordance with Transport Infrastructure Ireland (TII) document DN-GEO-03031, and therefore, the sight distances of 120 metres in both directions are acceptable in this regard.
- 7.11. I note that the proposed development seeks to remove approximately 40 metres of sod bank (southeast of the entrance) and 60 metres of hedgerow (at location of

entrance and west of entrance) in order to achieve the 120 metre sight distances. The Board should note that I have no significant concerns with this removal, subject to a condition for the reinstatement of such hedgerow in accordance with objective CDP 15.19(g) of the CDP.

Impact on local road network

- 7.12. I note the concerns of the Appellant regarding the narrowness of the road network and the proposed haul route. I did note the road was narrow in places on the date of my site inspection, particularly between the existing entrance and the ABC Nutrition Limited facility approximately 220 metres southeast of the existing entrance. However, I also noted that there were a number of sections of the road wide enough to facilitate passing movements. Having regard to this, to the level of HGV traffic that will import material per day (i.e. maximum of 5 no.), and to the low design speed of the road at this location, I have no significant concerns with traffic safety in this regard.
- 7.13. With regards to the Appellant's concerns that HGV traffic will travel through Cratloe village to the west of the proposed entrance, the Board should note that the submitted preliminary operational traffic management plan (POTMP) outlines the proposed traffic routes to and from the proposed development. Traffic will enter and exit the site to and from the east of the proposed entrance, via the local road network (L-3112 and L-3102) and national road N-18. No traffic is proposed to travel west of the proposed entrance within the village of Cratloe.
- 7.14. Having regard to this and to the level of traffic associated with the development, I am satisfied that no significant traffic safety or residential amenity issues arise. I note that the planning authority conditioned that the submitted POTMP was to be implemented in full and I recommend, if the Board are minded granting permission, that a similar condition is attached, to ensure that the haul route is adhered to.

Cumulative Impact

- 7.15. The Board should note that I have assessed the cumulative impact of the proposed development in terms of the EIA directive under Appendix 1 below and in terms of the Habitats Directive under Section 8 below.

Other Issues

- 7.16. I note the Appellant's concerns regarding the duration of permission and their request for a one-year permission. It is my view that to limit the duration of this application to that of a temporary permission of 1 year would be a significant departure from what was applied for by the Applicant. I do not consider it appropriate to limit the duration of permission because of a potential adverse effect of the development on the amenities or traffic safety of the area. If the Board consider that the amenities and traffic safety will certainly be adversely affected by the development, permission should be refused. However, the Board should note that I have based my assessment above and within Appendix 1 on the amenities and traffic implications of the development with regards to the importation of 104,000 tonnes over a 5-year period.
- 7.17. With regards to the request by the Appellant that there are no operations on Saturdays, I recommend that if the Board are minded granting permission that a condition is attached that ensures that works are only carried out between 08:00 and 13:00 on Saturdays, as stated by the Applicant, and not at all on Sundays or public holidays, in the interest of residential amenity. I do not consider it appropriate to prohibit any importation on Saturdays having regard to the nature of the development and to the low level of traffic associated with the development.

8.0 Appropriate Assessment (AA) Screening

Step 1: Description of the project

- 8.1. I have considered the project in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. The subject site is located approximately 750 metres north of the Lower River Shannon SAC (Site Code 002165) and River Shannon and River Fergus Estuaries SPA (Site Code 004077).
- 8.2. The proposal involves the importation of 104,000 tonnes of inert material to infill an agricultural field and the construction of a new access off the public road. The proposed fill area is located approximately 80 metres east of the Cratloe Stream which flows approximately 1km downstream (southwards) into the River Shannon.
- 8.3. The submitted screening report outlines that field walkover surveys were undertaken on 13th October 2021, 21st April 2022 and 11th August 2023. The wetland area to the

east of the site is separated from Cratloe stream via a high earthen bank and is drained by a field drain which enters the Cratloe stream at Sandy Bridge under the L-3102. Currently, water movement from the proposed fill area flows from west to east through the wetland area to the field drain.

It is proposed to lay a perforated drainpipe on the eastern end of the proposed fill area which will flow into a collection chamber incorporating a silt collection sump before discharging to the existing open drain along the south boundary of the wetland area where it will then discharge into the Cratloe stream. It is also proposed to fence the fill area.

Step 2: Potential impact mechanisms from the project

8.4. Taking account of the characteristics of the proposed development in terms of its location, nature and the scale of works, the following issues are considered for examination in terms of likely significant effects on European sites:

- Changes in water quality due to surface water run-off during the construction phase.
- Dust, noise and lighting disturbance to QI species.

8.5. As a result of these potential impacts, the project has the potential to affect the European Sites in terms of the following:

- Changes in water quality.
- Habitat loss or deterioration.
- Species disturbance or mortality.

Step 3: European Sites at risk

8.6. Having regard to the nature and scale of the project, the distance from the development site to the European Sites, and to the potential pathways which may exist from the subject site to a European Site, I have identified the following 2 no. European Sites at risk from the project:

- Lower River Shannon SAC (Site Code: 002165)
- River Shannon and River Fergus Estuaries SPA (Site Code 004077)

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
<ul style="list-style-type: none"> Changes in water quality Habitat loss or deterioration Species disturbance or mortality 	<p>Indirect hydrological connection via field drain/Cratloe Stream which connects to the River Shannon approximately 1km downstream.</p> <p>750 metres away via air.</p>	Lower River Shannon SAC (002165)	<p>21QIs</p> <p>https://www.irishstatutebook.ie/eli/2023/si/328/made/en/pdf</p>
<ul style="list-style-type: none"> Changes in water quality Habitat loss or deterioration Species disturbance or mortality 	<p>Indirect hydrological connection via field drain/Cratloe Stream which connects to the River Shannon approximately 1km downstream.</p> <p>750 metres away via air.</p>	River Shannon and River Fergus Estuaries SPA (004077)	<p>21QIs</p> <p>https://www.irishstatutebook.ie/eli/2019/si/329/made/en</p>

Step 4: Likely significant effects on the European site(s) 'alone'**Table 2: Could the project undermine the conservation objectives 'alone'**

European Site and qualifying feature	Conservation objective	Could the conservation objectives be undermined (Y/N)?
Lower River Shannon SAC	To restore the favourable conservation condition of the Freshwater pearl mussel (1029), the sea lamprey	<p>No, for the following reasons:</p> <p><u>Surface Water</u></p>

<p>(Site Code 002165)</p>	<p>(1095), Atlantic Salmon (1106), coastal lagoons (1150), Atlantic salt meadows (1330), otter (1355), Mediterranean salt meadows (1410) and Alluvial forests with alnus glutinosa and fraxinus excelsior (91E0).</p> <p>To maintain the favourable conservation condition of the brook lamprey (1096), the river lamprey (1099), sandbanks which are slightly covered by sea water all the time (1110), estuaries (1130), mudflats and sandflats not covered by seawater at low tide (1140), large shallow inlets and bays (1160), reefs (1170), perennial vegetation of stony banks (1220), vegetated sea cliffs of the Atlantic and Baltic coasts (1230), salicornia and other annuals colonizing mud and sand (1310), bottlenose dolphin (1349), watercourses of plain to montane levels with the ranunculion fluitantis and callitricho-batrachion vegetation (3260) and Molinia meadows on calcareous, peaty or clayey-silt-laden soils (6410).</p>	<p>The proposed fill area is located approximately 80 metres west of the Cratloe Stream which is protected by an existing high embankment. A wetland is located between the proposed fill area and the stream and this will be protected by suitable fencing and straw silt traps in accordance with best practice measures. Water from the proposed fill area will flow via a new perforated drainpipe along the eastern boundary of the fill area, silt trap, and existing field drain to the south of the wetland area where it will then enter the Cratloe Stream at the Sandy Bridge on the Old Cratloe Road. I am satisfied that the measures proposed are standard design measures for a development of this nature and do not represent mitigation measures intended to avoid or reduce harmful effects on European sites.</p> <p>Having regard to the nature of the development, i.e. importation of clean inert soil and stone material, to the standard design measures such as fencing and silt traps proposed and to the distance to the European Sites, it is considered that there is no potential for significant effects.</p> <p><u>Noise, Dust, Lighting</u></p> <p>The nature of the development is unlikely to give rise to any significant disturbance issues. Having regard to this, to the separation distance from the subject site to the designated sites, to the intervening land uses and vegetative boundaries, I am satisfied that the proposed development</p>
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		<p>would not likely affect the qualifying interest species in terms of dust, noise or lighting.</p> <p><u>Ex-Situ effects</u></p> <p>Otters are mainly nocturnal and there are no night works proposed as part of the development with no significant noise or lighting changes. Therefore, no significant ex-situ effects are likely. With regards to the lamprey and Atlantic salmon, having regard to the standard design measures proposed and to the nature of the development, no significant ex-situ effects are considered likely.</p>
River Shannon and River Fergus Estuaries SPA (Site Code 004077)	To maintain the favourable conservation condition of the qualifying bird species.	<p><i>My conclusions outlined above apply to the qualifying interests and conservation objectives of this European Site.</i></p> <p><u>Ex-Situ effects</u></p> <p>The proposed fill area is located next to a wetland, however, it is not proposed to disturb this area during works. Due to the nature of the development unlikely to give rise to any significant disturbance issues in terms of noise, dust or lighting, to the survey observations outlined within the submitted screening report, to the separation distance from the designated site, the intervening land uses, the nature of the proposed fill area comprising of agricultural lands, I am satisfied that no ex-situ effects are likely.</p>

- 8.7. Having regard to the above, I conclude that the proposed development would have no likely significant effect 'alone' on any qualifying feature(s) of the Lower River Shannon SAC (002165) or the River Shannon and River Fergus Estuaries SPA (004077), or any other European Site. Further AA screening in-combination with other plans and projects is required.

Step 5: Likely significant effects on the European site(s) 'in-combination with other plans and projects'

- 8.8. The main potential for an in-combination impact would be in relation to the impact on water quality within the Cratloe Stream. The submitted Screening Report identifies a treated wastewater discharge to the Cratloe Stream from the Radisson Hotel. The water quality within the stream is stated as under pressure due to animal ingress into the stream. I note that the proposed development will result in fencing of the filled lands with improved grassland for grazing.
- 8.9. I note that the proposed fill area is located approximately 300 metres from an industrial building (ABC Nutrition Limited) which was granted permission under PA application refs. 19/251, 19/884 and 22/1036 and which was screened out for AA by the PA. I note that as part of this application, surface water is discharged via soakaways and therefore does not discharge to the Cratloe Stream. I have also reviewed the Department of Housing, Local Government and Heritage's National Planning Application database and EIA Portal and the Clare County Council's planning register, I note that there are no other plans or projects for potential significant cumulative effects.
- 8.10. Having regard to the nature of the proposed development, I conclude that the proposed development would have no likely significant effect in combination with other plans and projects on the qualifying features of any European site(s). No further assessment is required for the project.

Overall Conclusion

- 8.11. 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 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. It is therefore determined that

Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000 is not required. This conclusion is based on the following:

- The objective information presented in the submitted Screening Report,
- To the nature of the project which relates to the importation of clean inert soil and stone material,
- To the standard pollution controls that would be employed regardless of proximity to a European site and effectiveness of same,
- To the distance of the European Sites downstream from the proposed development,
- To the distance from the European Sites with regards to other potential ecological pathways,
- To the location of the proposed fill area outside of any wetlands, and
- To the screening assessment and determination by the PA.

8.12. The Board should note that no measures intended to avoid or reduce harmful effects on European sites have been taken into account in reaching this conclusion.

9.0 Recommendation

I recommend that permission is **Granted** subject to conditions, for the following reasons and considerations.

10.0 Reasons and Considerations

Having regard to the location of the lands within a rural agricultural area, to the purpose of the development to improve agricultural land, to the separation from any watercourses, to the nature and volume of inert material to be imported into the site and associated low volume of traffic movements likely to be generated, it is considered that, subject to compliance with the conditions set out below, the proposed development would not endanger public safety by reason of a traffic hazard, would not adversely affect the residential or visual amenities of the area, would be acceptable in terms of biodiversity and would not increase the risk of flooding. It is, therefore, considered that the proposed development would be in accordance with objectives

CDP 11.36(a) (waste transfer and recovery facilities), CDP 11.38(c) (construction and demolition waste) and CDP 15.19(g) (hedgerows) of the Clare County Development Plan 2023-2029, and therefore, would 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, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The imported material to be deposited on the land shall comprise of inert soil, stone and topsoil only, and shall be levelled, contoured and seeded upon the completion of the works and protected until established.

Reason: In order to assimilate the development into the surrounding rural landscape, in the interest of visual amenity.

3. (a) This 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.

(b) Reinstatement works shall be completed in accordance with a plan to be submitted to the planning authority for their written approval prior to commencement of development.

Reason: In the interest of clarity.

4. (a) The maximum quantity of inert soil and stone to be accepted at the site shall not exceed 104,000 tonnes in total over the period referred to in condition number 3 and shall not exceed 20,800 tonnes in any one year.
- (b) The developer shall keep a written record onsite of all the material imported to the site (volume and classification) and this shall be made available for inspection by the planning authority upon request.
- (c) A maximum of 5 loads per day shall be imported to the site.

Reason: In the interest of clarity, traffic safety, to protected residential amenities and for the protection of the environment.

5. The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. This shall include the following:
- (a) The developer shall be responsible for the full cost of repair in respect of any damage caused to the public roadway arising from the construction works and operations and shall make good any damage to the road to the satisfaction of the planning authority.
- (b) Proposals for the suppression of dust on site and on the access road.
- (c) Proposals for the bunding of fuel and lubrication storage areas and details of emergency action in the event of accidental spillage.
- (d) Proposals for the disposal of waste material offsite.
- (e) Proposals to prevent the introduction of invasive species onsite.
- (f) Proposals for keeping the public road free of muck, dirt and debris including cleaning arrangements, and location of the wheelwash facility.
- (g) Details of site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.

Reason: In order to safeguard local amenities.

6. The final use of the site after completion of the importation of materials shall be for agricultural purposes only and the lands shall be reinstated, and infrastructure associated with the proposed development removed to the written satisfaction of the planning authority.

Reason: In the interest of clarity.

7. (a) All trees and hedgerows on the boundaries of the site shall be retained and maintained, with the exception to those necessary to provide for the proposed entrance and sightlines.

(b) Any hedgerow removed to the west of the proposed entrance to accommodate sightlines shall be replanted with native species along the new boundary with the public road and such details shall be submitted to the planning authority for their written approval prior to commencement of the development.

(c) All hedgerow/tree removal and stripping of soils shall be undertaken outside the bird breeding season.

Reason: In the interest of visual amenity and biodiversity.

8. The importation of inert soil and stone and the operation of associated machinery shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays, between 0800 to 1300 hours on Saturdays and not at all on Sundays, bank or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of good traffic management and to protect the amenities of the area.

9. Vehicles transporting material to the site and leaving the site shall use the haul route outlined within the submitted preliminary operational traffic management plan submitted to the planning authority on 7th September 2023.

Reason: In the interest of traffic safety and residential amenity.

10. Details of road signage, including advance warning notices along the public road, 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.

Reason: In the interest of traffic safety.

11. The noise level from within the boundaries of the site, measured at noise sensitive locations in the vicinity, shall not exceed

- (a) an L_{Ar,T} value of 55 dB(A) between the hours of 0800 and 1900 from Mondays to Fridays and between the hours of 0800 and 1400 on Saturdays (excluding public holidays); and
- (b) an L_{Aeq, T} value of 45 dB(A) at any other time.

Reason: To protect the residential amenities of property in the vicinity.

12. During the construction stage, dust emissions shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge).

Reason: To protect biodiversity and the residential amenities of property in the vicinity.

13. 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 reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory reinstatement of any defects. 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.

Reason: In the interest of traffic safety.

14. 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 the 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. The application of any indexation required by this condition 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.

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

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Gary Farrelly
Planning Inspector

18th July 2024

Appendix 1

Form 1 - EIA Pre-Screening

An Bord Pleanála Case Reference	318397-23		
Proposed Development Summary	The improvement of agricultural land with inert material, modification of existing access route to lands with provision of new entrance/exit to replace existing entrance/exit and all ancillary site works		
Development Address	Cratloemoyle, Cratloe, County Clare		
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	X
		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			EIA Mandatory EIAR required
No	X		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			Conclusion
			No EIAR or Preliminary Examination required

Yes	X	<p>Class 1(a) Projects for the restructuring of rural land holdings, undertaken as part of a wider proposed development, and not as an agricultural activity that must comply with the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011, where the length of field boundary to be removed is above 4 kilometres, or where re-contouring is above 5 hectares, or where the area of lands to be restructured by removal of field boundaries is above 50 hectares.</p> <p>Class 11(b): Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.</p> <p>Class 15: Any project listed in this Part which does not exceed a quantity, area or other limit 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.</p>	Development relates to the infilling of an agricultural field of 108,000 tonnes over a period of 5 years. This equates to 20,800 tonnes per annum. The proposed fill area measures 2.31 hectares. It is proposed to remove approximately 100 metres of hedgerow/sod bank along the roadside to accommodate sightlines.	Proceed to Q.4
4. Has Schedule 7A information been submitted?				
No	X	Preliminary Examination required		
Yes		Screening Determination required		

Form 2 - EIA Preliminary Examination

The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
<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 seeks to import inert material to the site. The nature of the development would not be exceptional to this rural area. Permission was previously granted under application ref. 14/446 on a site to the south of the subject site for infilling which has been completed.</p> <p>Having regard to the inert nature of the material to be imported, it is considered that this should not endanger the quality of surface water or groundwater. A quarantine area will be provided for examination of loads for contaminants. If such material arises, it will be moved off site to an appropriate facility.</p> <p>No significant noise emissions are likely. There will be movement of HGVs, however, these will take place during normal working hours and will comprise of an average movement of 4 loads per day to the site, with a maximum of 5 loads per day. Air pollution will be limited to typical construction nuisance such as dust.</p>	No
<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>The infill area of the site measures 2.31 hectares which forms part of a field measuring 6.32 hectares. An area of 1.8 hectares to the south of the proposed fill area was previously granted planning permission for infilling (Ref. 14/446). The proposed development will fill the area by an average depth of 3.8 metres with appropriate graduation to take account of the land contours to avoid sharp changes in ground elevation.</p> <p>The project is located approximately 220 metres from an industrial facility (granted permission under PA application refs. 19/251, 19/884 and 22/1036), and there is potential for</p>	No

	<p>a cumulative impact in terms of traffic on the local road network, however, this is not considered significant, having regard to the modest HGV movements associated with this industrial facility (i.e. 6 per day) and to the maximum of 5 loads per day associated with the proposed development.</p> <p>Having reviewed the Department of Housing, Local Government and Heritage's National Planning Application database and EIA Portal and the Clare County Council's planning register, I note that there are no other plans or projects for potential significant cumulative effects on the environment.</p>	
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The nearest designated sites are the River Shannon and River Fergus Estuaries Special Protection Area (SPA) (Site Code 004077) and the Lower River Shannon Special Area of Conservation (SAC) (Site Code 002165) which are located approximately 750 metres south of the site. This is also designated as a proposed natural heritage area (pNHA) (Fergus Estuary and Inner Shannon, North Shore).</p> <p>The application has been accompanied by an appropriate assessment screening report: My Appropriate Assessment undertaken concludes that the proposed development will not likely result in a significant effect on any European Site.</p> <p>The site is not located within Flood Zone A or Flood Zone B. A large part of the field is a wetland within a flood zone, however, this area will be preserved and does not form part of the fill area. Therefore, there is no likelihood that the development will increase the risk of flooding onsite or elsewhere.</p> <p>There are no archaeological or cultural heritage features located in close proximity to the site.</p>	No

Conclusion		
There is no real likelihood of significant effects on the environment. EIA not required.	There is significant and realistic doubt regarding the likelihood of significant effects on the environment. Schedule 7A Information required to enable a Screening Determination to be carried out.	There is a real likelihood of significant effects on the environment. EIAR required.

Inspector: _____

Date: 18th July 2024

Gary Farrelly