An Bord Pleanála

Inspector's Report

ABP-318566-23

Development	Waste management facility. Natura Impact Statement and Environmental Impact Assessment Report submitted with application.
Location	Derryarkin, Rhode, Co. Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	22490
Applicant	Oxigen Environmental Unlimited Company.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	Claire Smale-Murray on behalf of Residents of Rhode and Croghan. Cathryn Whelehan on behalf of concerned residents in Rochfortbridge.
Observers	Keith Kavanagh on behalf of Rhode & Croghan Residents Association
Date of Site Inspection	27th May 2024
Inspector	Dolores McCague

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1.0 Site Location and Description

1.1.1. The site is located at Derryarkin, Rhode, Co. Offaly, 3km south of the M6 motorway. 5.5km north west of Rhode, 4km south of Rochfortbridge and 2.2km west of the R400.

1.1.2. The site fronts onto the end of a private roadway which accesses very extensive areas of bogland where industrial peat extraction has ceased. Wind turbines are currently being erected on some of this worked peatland. An open attenuation basin associated with windfarm development is close to the eastern boundary. Near the eastern end of the access road there are areas of commercial turf production, still being operated, and private turbary being worked. There is also what appears to be a high bog remnant.

1.1.3. The eastern and northern site boundaries adjoin a large pig farm, Skeagh Farms. The access to the farm is along the eastern boundary, and the production unit stretches in an east-west orientation to the north. A quarry, in which the large deposits below the bog are extracted, named in the file as, Kilmurray quarry and soil recovery facility, is a short distance to the west. To the south of the roadway fronting the site, there is a watercourse, given as a drain in the documentation, which was formerly the course of the Yellow River. The watercourse joins the Yellow River to the east, which then flows via the Castlejordan River into the River Boyne.

1.1.4. Some distance to the south there are a number of farms and farm dwellings along a minor cul-de-sac public road, and right of way, accessed from the direction of Croghan to the west. The site is barely discernible from Croghan Hill, c.4 kilometres to the south, and from the road skirting its northern flank,. It is visible from the road serving the dwellings to the south; four houses located 755m to 800m from the southern boundary.

1.1.5. The site is occupied by buildings and surfaced areas, previously used as an agricultural facility and currently disused. From the layout this appears to have comprised cattle housing. The wide span roofing material is asbestos.

1.1.6. There is a small stand of evergreen trees in the southwest corner.

1.1.7. The roadway which serves the site extends several kilometres from the R400, and as referred to by the planning authority, is a public road, at least at the eastern end. It is surfaced in unbound material, rutted in places and of varying widths. Near its junction with the R400 it is hard surfaced, and the junction is splayed. The R400, like most of the roads in the vicinity, is a bog rampart road. Undulations along sections of this road reflect change in the underlying structure, and the pavement requires frequent repair. A bridge collapse has recently required an extended period of road closure.

1.1.8. The site is given as 0.8ha.

2.0 **Proposed Development**

2.1.1. The application was submitted on the 21st September 2022.

2.1.2. The development will consist of the demolition of existing agricultural sheds and structures on-site and the construction and operation of a materials recovery facility for the acceptance and processing of up to 90,000 tonnes per annum of household, commercial and industrial and construction and demolition waste. Elements of the proposed development include the following:

(1) the demolition of all existing agricultural sheds and structures on-site (which cover an area of 1,417 m^2);

(2) the construction and operation of a materials recovery facility comprising:

(a) a site entrance,

(b) a weighbridge,

(c) trucking set down and parking areas,

(d) staff parking, comprising 24 parking spaces including disabled parking and EV charging,

(e) a concrete yard area,

(f) a fuel storage area,

(g) external waste storage bays,

(h) skip/bin storage areas,

(i) a perimeter boundary wall (4 m in height) and perimeter fencing (2.1 m in height),

(j) a stormwater drainage and attenuation system,

(k) a two-storey administration building (with an overall floor area of c. 396m^2 and c. 7.35m in height),

(l) a single storey materials recovery facility (with an overall floor area of c. 2,850m^2 to a maximum height of c. 13m),

(m) a truck loading bay,

(n) an on-site wastewater treatment system, associated percolation area and ancillary services,

(o) an on-site ESB sub-station and adjoining electrical room (with a combined floor area of 61 m^2 and 2.175 m in height),

(p) solar panels (covering a total area of 737 m^2) mounted on top of the proposed administration and materials recovery facility buildings.

The application is accompanied by an Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS). The proposed development will accept up to 50,000 tonnes of waste per annum and operate under a waste facility permit from Offaly County Council during phase 1 of operations. The proposed development will accept up to 90,000 tonnes of waste per annum and operate under an Industrial Emissions Licence from the Environmental Protection Agency during phase 2 of operations.

The operation is described in the documentation as:

Acceptance, bulk loading and onward transfer of dry mixed recyclables (DMR),

Acceptance, shredding and onward transfer of timber waste;

Acceptance, processing and onward transfer of construction and demolition (C&D) and commercial and industrial (C&I) skip wastes

Acceptance, processing pre-treatment and onward transfer of municipal solid waste, (MSW).

Documents submitted with the application include the following: an EIAR, a Report to inform the Appropriate Assessment Process (Screening and Natura Impact Statement), a Construction Environmental Management Plan, a Firewater Risk Assessment Report, and Drawings

The EIAR is in 3 volumes:

Volume 1 Non Technical Summary

Volume 2 Main Body in 17 chapters

1 – Introduction

2 - Need for the Proposed Development

3 – Alternatives

4 - Existing and Proposed Environment

5 - Planning and Policy Context

6 - Scoping and Consultation.

7 - Population and Human Health

8 - Biodiversity

9 - Soils, Geology and Hydrogeology

10 - Hydrogeology and Surface Water Quality

11 - Air Quality and Climate

12 - Noise and Vibration

13 - Traffic and Transportation

14 - Archaeology, Architecture and Cultural Heritage

15 - Landscape & Visual Impact Assessment

16 – Interrelationships and Interactions

17 – Schedule of Environmental Commitments

and

Volume 3 Appendices.

2.1.3. Further documents were received in response to the further information request, including:

Response letter

App 1 – Surface Water Design Calculation Report

App 2 - Updated list of wastes to be accepted on-site during Phase 2 of operations

App 3 – Site Drainage Design Report

App 4 – Wastewater Treatment System

App 5 - Tankered Waste Agreement with Uisce Éireann

App 9 – Samples & Specifications

Drawings

For waste categories see appendix 4 to this report.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority decided to grant permission subject to 23 conditions, including:

3 a) waste to be accepted at the facility for disposal, recovery and treatment shall not exceed 90,000 tonnes per annum of household, commercial and industrial and construction and demolition waste. No hazardous waste shall be accepted or processed at the facility.

b) the developer shall apply and obtain a Waste Facility Permit under the Waste Management Regulations 2007, as amended from the Environment Section of Offaly County Council prior to waste activities commencing on site for operations under phase 1 only.

The list of waste codes for phase 1 as submitted with the planning application and phase 2 as outlined in Appendix 2 of the response to further information request is permitted at the site.

Reason: In the interest of the proper planning and development of the area.

6 Upgrade works to junction with R400 to be carried out in advance of commencement of construction works from the proposed development in accordance with TII document DN-GEO-03060, June 2017. Junction upgrade works to include the provision of 20 metres of resurfacing on the L10091 from R400 road junction so as to satisfy requirements of RSM Stage 2 Road Safety Audit (RSA),

December 2021. The inclusion of same is in addition to the proposed pavement upgrades as indicated on Tobin Consulting Engineers Drawing 10884-2004, Revision A, November 2021. Full road pavement reconstruction to be in accordance with the Guidelines for the Rehabilitation of Roads over Peat – Green Book, including the use of an appropriate composite geogrid. Specific pavement design to be submitted to the Planning Authority for written approval prior to commencement of development.

Reason: In the interest of traffic safety and orderly development.

11 All monitoring proposals detailed in the submitted documentation, including the Environmental Impact Assessment report (EIAR) shall be implemented in full. The developer shall monitor and record groundwater levels, surface water, noise, odour and dust deposition levels at monitoring and recording stations. The intervals and location of which shall be submitted to and agreed in writing with Offaly County Council prior to commencement of development.

Reason: In the interests of clarity and the proper planning and sustainable development of the area.

15 All haulier's importing or removing waste from the facility shall hold a valid waste collection permit in accordance with the Waste Management Regulations 2007, as amended. Only waste activities authorised under a Waste Facility Permit issued by Offaly County Council under the Waste Management (Facility Permit and Registration) Regulations 2007, as amended, can be carried out at the site location as outlined in the planning application for phase 1.

Reason: In the interests of the proper planning and development of the area.

16 a) All loose litter accumulated within the facility and its environs shall be removed and appropriately disposed of daily.

b) Emergency Spill Management Plan shall be Implemented in the event of accidental leaks or spills and spill kit shall be made available to all site staff.

c) All overground oil and chemical storage tank(s) shall be adequately bunded to protect against spillage. Bunding shall be impermeable and capable of retaining a volume equal or greater than 100% of the capacity of the largest tank within the bunded area or 25% of the total volume of substance which could be stored within

the bunded area, which ever is greater. Filling and offtake points shall be located within the bunded areas.

d) All bunding arrangements for the storage of fuel, oil, or other types of chemical substances to be stored within the development shall conform to the EPA Guidance Document 'Storage & Transfer of Materials for Scheduled Activities'.

Reason: In the interests of the proper planning and development of the area.

17 a) Site development and construction works shall be carried out between the hours of 07.00 hrs – 18.00 hrs Mondays to Fridays inclusive, between 8.00 hrs – 13.30hrs on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority. The developer shall take reasonable measures to mitigate any environmental nuisance (noise and dust) which may arise during construction.

b) the hours of operation shall be 08.00 hrs – 18.00 hrs Monday to Friday (excluding bank holidays) and 8.00 hrs – 13.30hrs on Saturdays. There shall be no operations on site on Sundays.

Reason: In the interests of the proper planning and development of the area.

18 a) total dust deposition at the site boundaries shall not exceed 350 mg/m^2/day averaged over a thirty day period.

b) In dry weather conditions dust abatement measures during construction stage shall be applied to all loads leaving the site, dampening the load, covering the load or other appropriate measures. Water spraying of roads, shall be carried out as necessary.

c) Noise emissions at the nearest noise sensitive location (such as dwellings, schools, places of worship or areas of high amenity) shall not exceed the following:

LAeq (60 minutes) 55 dB(A) 8am to 8 pm

LAeq (15minutes) 45 dB(A) 8pm to 8 am

d) There shall be no clearly audible tonal or impulsive components to the noise emissions from the development at any noise sensitive location.

Reason: In the interests of public health and orderly development.

19 soiled water

a) prior to waste activities commencing on site, the developer shall replace the existing agricultural tank on site with a new reinforced concrete holding tank, minimum capacity 78m^3. The reinforced concrete tanks to be designed by qualified structural engineer, to meet equivalent standard to Uisce Eireann Stormwater tanks. Tanks to be tested to BS 8007 and signed off by certifying engineer.

b) works generating soiled water / leachate are only permitted in areas served by proposed foul-water collection system outlined on Drawing Ref. P2344-0500-0002 submitted to the planning authority on the 11th July 2023.

c) all soiled water generated by works at the proposed development shall be conveyed through to the proposed holding tank. No effluent shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road.

Reason: In the interests of public health and orderly development.

20 wastewater treatment.

21 surface water management.

a) clean surface water and run-off from roofs and clean paved areas only shall be collected and directed to a soakpit or the nearest field drain located within the boundaries of the site and shall not be allowed to flow onto any roadway or discharge to soiled water/effluent storage areas.

c) prior to waste activities commencing on site, the developer shall replace the existing agricultural tank on site with a new reinforced concrete holding tank, minimum capacity 440m^3. A minimum of 4 no. access/inspection points are to be incorporated uniformly along the length of this tank (Surespan or equivalent) to enable inspection, sampling and routine servicing. Testing shall be carried out on a schedule to be agreed with Offaly County Council Environment Section. No run-off that breaches relevant standards for discharge to watercourses is permitted. Where attenuated surface water run-off is found to exceed standards, the operator/developer will be required to close the shut-off valve, and tanker the water for third party treatment by Uisce Eireann or similar.

d) prior to commencement of development the headwall / outfall design (at discharge point) shall be agreed with Inland Fisheries Ireland to mitigate potential impact on

local fisheries habitat. Prior to commencement of development, the developer shall submit the agreed drawings to the planning authority indicating the detailed design of the footprint at the discharge point or wing walls containing pipes. Exact location of proposed outfall shall be agreed with Inland Fisheries Ireland so as to minimise impacts on spawning redds or salmonid habitat.

e) The written consent of Inland Fisheries Ireland shall be obtained in advance or works commencing so as to agree construction methodology and mitigation measures for the construction of headwall / wingwalls / scour mat. Timing of in-stream works to be carried out during the period July – September, as per guidelines on the protection of fisheries during construction works in and adjacent to waters. Developer to provide 7 days notification to Inland Fisheries Ireland prior to commencement of works within the watercourse.

Reason: In the interests of environmental protection.

23 The developer shall pay to the planning authority a financial contribution as a special contribution under section 48 (2) (c) of the Planning and Development Act 2000, as amended, in respect of the impact the development will have on the R400.

The amount of the contribution shall be €25,000 per annum. The contribution shall be paid annually within three months from the date of this grant of planning permission or in such payments as the planning authority may facilitate.

Reason: I t is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

3.2. **Planning Authority Reports**

3.3. Planning Report, 14th November 2022, recommending a further information request, which issued, includes:

There were no third party submissions or observations.

It notes that site notices were in place.

The policy context is noted.

The development plan policies are referenced. The report states that it is considered that the development complies with the Offaly County Development Plan 2021-2027.

Applicants state that the proposed development is expected to have a lifetime of between 25 and 50 years.

Visual impact is examined, noting no concerns.

The EIAR is examined, mitigation considered, and planning authority comments noted; for the most part noting no concerns.

The proposed development is not contrary to the RSES and so it was not referred to the Eastern and Midland Regional Assembly.

3.4. Other Technical Reports

3.5. Area Engineer, 14 Nov 2022, conditions, including:

Public lighting to be provided at the R400 junction.

Pavement type 2, as shown on the drawing as surface dressed roadway, is where concentrated HGVs turning movement will occur, resulting in lose material on the R400 and degradation of the junction surface. Surfacing to be upgraded to type 1.

Annual contribution of €25,000 for road based on:

5.6km of road,

The lifespan of road.

The guidelines on Rehabilitation of Roads over Peat which indicate a 5-10 year lifespan of heavily traffic regional roads.

The facility proposes to add approx. 67 HGVs per day onto the R400, to include TB3 class and above. The existing level of traffic, as per Traffic Count May 2019 is AADT of 2,681, including 271 HGV's of TB3 or above. The 67 additional HGVs represent an increase of approximately 24.7%.

An optimistic view on the life-span of the road surface, gives 30 years for non-peat founded roads and 10 years for roads founded on peat. Experience would indicate that in fact the roads will require more frequent upgrade. Of the 13.65 km of R400 to be used, 59% is founded on peat: 8.05km. Costings for road recycling every 10 years for the peat section, and for full road restoration

every 30 years for the non-peat section, are given; on which the annual contribution of €25,000 is based.

3.6. Environment Water Services, 14 Nov 2022 - further information.

3.7. Roads Section, 11 Nov, 2022, conditions, including:

Upgrade works to junction with R400 to be carried out in advance of commencement of construction works from proposed development in accordance with TII document DN-GEO-03060, June 2017. Offaly Co Co require junction upgrade works to include for the provision of 20m of resurfacing on the L10091 from R400 road junction so as to satisfy requirements of RSM Stage 2 Road Safety Audit, December 2021. The inclusion of same is in addition to the proposed pavement upgrades as indicated on Tobin Consulting Engineers Drawing 10884-2004, revision A, November 2021. Full pavement reconstruction to be in accordance with the 'Guidelines for the Rehabilitation of Roads over Peat' – Green Book. Including the use of an appropriate composite geogrid. Specific pavement design to be submitted to the Planning Authority for written agreement prior to commencement of development.

3.8. **Prescribed Bodies**

3.9. HSE, National Office for Environmental Health Services (National Support Services NSU), 4th Nov 2022:

conditions.

3.10. IFI, 14th October 2022:

ensure no threat to Yellow River.

3.11. EPA, 25th October 2022:

comments re. any future licence.

3.12. **Further Information**

3.12.1. A Further Information Request issued 15th November 2022 on 15 items:

1) Operational period
2) Decommissioning

3) a) Details of hazardous waste to be processed

   b) Justification for outdoor timber shredding

4) Conclusion and summary of effects (which was incomplete)
5) Surface water management
6) Waste water management
7) Secondary treatment system
8) Wash-down drainage
9) Groundwater/surface water protection
10) Operational phase
11) Proposed solar panels
12) Consultation with stakeholders
13) Landscape plan
14) Finishes
15) External Submissions – EPA and IFI.

3.12.2. A Further Information Response was received 11th July 2023.

3.12.3. Notification of receipt of significant further information was received 2nd August 2023 and again on the 4th September 2023 (after road re-opening), at the request of the planning authority, with reference to the closure of the R400. The road was closed from 17th July 2023, due to a collapsed bridge, such that the site notice of August at the site location did not adequately inform the public. The copy of the second notification, was accompanied by a map showing the location of the site notices.

3.13. Further Reports

Following Receipt of Further Information

3.13.1. Planning Report, 7th November 2023, recommending permission, which issued, includes:

- 114 objections received.
- Satisfied with responses.

3.13.2. Other Technical Reports

3.13.3. Environment Water Services, 31st Oct 2023, conditions.

3.13.4. Area Engineer, 7 Oct 2023 and 6 Nov 2023, conditions, which are included in the decision.

3.14. Prescribed Bodies

3.14.1. IFI, 5th September 2023

The Yellow River adjacent to this site contains prominent stocks of Brown Trout and stocks of Atlantic Salmon. It also contains salmonid habitat and spawning redds. They are concerned that potentially contaminated stormwater from this site will damage local stocks and habitat.

They are concerned that the footprint at the discharge point, containing pipes or wingwalls, will damage the local fisheries habitat, and indeed may impinge on spawning redds.

The EU Water Framework Directive (2000/60/EC) that entered into force in December 2000 requires the protection of the ecological status of river catchments – this encompasses water quality and requires the conservation of habitats for ecological communities. One of the primary objectives of the Directive is to establish a framework which prevents further deterioration and protects and enhances the status of aquatic ecosystems. Protection of aquatic ecosystems requires that river systems be protected on a catchment basis.

Article 5 of the 2009 Surface Water Regulations requires that a public authority, in performance of its functions, shall not undertake those functions in a manner that knowingly causes or allows deterioration in the chemical or ecological status of a body of surface water. Also Article 28(2) states ‘a surface water body whose status is determined to be less than good shall be restored to at least good status not later than the end of 2015 and any water body of good status should remain at least this status.

The Yellow River is currently at ‘bad’ status. It disimproved from ‘moderate’ in 2018 and should have been restored to at least ‘good’ by the end of 2015. This application may affect the potential restoration of better water quality.

3.15. **Third Party Observations**

3.15.1. Third party observations have been read and noted. Concerns raised include: proximity to houses, traffic, smell at the facility and from passing lorries, noise, vermin, inadequate notice, not compatible with re-wetting bogs, chemicals released into air, risk of fire, risk of fire spreading to bog, underground HV power lines, currently HV cables being installed along 2km section of R400 connecting Yellow River Wind to the grid, in the event of road closures how will it be accessed, three recent road closures, bog road (subsidence – bridge broken – cumulative, damage to houses adjoining road), impact on Rhode, impact on Croghan Hill, previous refusal of licences to this company by the EPA, reduction in local amenities, how will the Council liaise with Westmeath where most of the affected people live.

4.0 Planning History

21/247 – 44ha extension to an existing quarry for a 23 year period.

ABP 19.PA0032 - 15 year planning permission for development of a 32 turbine wind farm.

1849 development of a 30.2ha extraction of sand and gravel from a greenfield area (area 1 – 26ha) by mechanical means and transportation to the manufacturing area (area 2) for processing and all associated facilities/works. Continuation of use of the existing authorised manufacturing area (area 2 - 4.2ha) and existing infrastructure.

18324 filling of lands with inert waste consisting of concrete, bricks, tiles and ceramics, soil and stones for the purpose of land reclamation.

178 sand and gravel extraction from two areas of land consisting of 30.9ha (area ‘a1’ consisting of 19.3ha and area ‘a2’ consisting of 11.6ha.

Ex190010 (1476) Pl2/14/76 construction of 2 no pig houses and 1 no stormwater attenuation tank, together with all ancillary structures.

5.0 Legal & Policy Context

5.1. Climate Action and Low Carbon Development (Amendment) Act, 2021

This establishes a framework to develop the transition towards a low carbon economy.

5.2. Climate Action and Low Carbon Development Act 2015

Section 15 requires a relevant body to have regard to the approved national mitigation plan, adaptation framework and sectoral adaptation plans, national transition objectives, and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the state.

5.3. Climate Action Plan (CAP) 2023 - Changing Ireland for the Better

This is an update and includes:

Outlining the actions required to 2035 and beyond, which will guide our joint efforts over the coming years. It will be updated annually and will be improved and strengthened when required, allowing us to learn from our experiences in what is a very significant and complex undertaking. While we have yet to see the large emissions reductions that will be required to achieve our goals, we will continue to put in place the policies and measures that will allow these reductions to be achieved over the remainder of the decade and beyond. We will also continue to deal with the climate change that is already upon us and strengthen our resilience to the adverse impacts of extreme weather events that are becoming increasingly frequent.

5.4. National Waste Management Plan for a Circular Economy 2024-2030

5.4.1. The transition to a circular economy requires a collaborative national response across all sectors of the economy through the lifecycle of products and materials. Moving away from the traditional linear ‘take-make-use-dispose’ model towards a ‘circular economy’ regenerative growth model where resources are reused or recycled as much as possible and the generation of waste is minimised. The transition to a circular economy is essential to reduce pressure on natural resources,

aid in achieving climate targets, support Sustainable Development Goals and create sustainable growth and jobs.

5.4.2. It includes, in appendix 9, guidance for siting waste management facilities.

5.4.3. For materials recovery facilities it recommends considering access to feedstock and to end-markets, as important considerations, and it advises that a rural location may be a significant obstacle for this facility type. The locations of sites are to be within 10km of a national road.

5.5. Climate Action Plan 2024

5.5.1. Circular Economy - The transition to a circular economy will reduce our greenhouse gas (GHG) emissions and make a significant contribution to achieving our climate objectives. The government has committed to this transition through the enactment of the Circular Economy and Miscellaneous Provisions Act 2022, as well as the ongoing implementation of the Waste Action Plan for a Circular Economy and the Whole-of-Government Circular Economy Strategy.

We will increase our capacity to recycle packaging waste by 70%.

5.6. A Resource Opportunity, Waste Management Policy in Ireland,

5.6.1. Published by the Department of the Environment, Community and Local Government, July 2012, this policy is predicated on the EU waste hierarchy and encompasses a range of measures across all five tiers namely, prevention and minimisation, reuse, recycling, recovery and disposal. It sets out how the higher tiers can reduce our reliance on finite resources, virtually eliminate our reliance on landfill and minimise the impact on our environment. The policy recognises the importance of waste as an energy resource opportunity in terms of recovery, and the need to develop efficient ways to harness that resource.

5.6.2. It includes the principles of proximity and self-sufficiency.

5.7. Waste Management Changing Our Ways,

5.7.1. This policy was published by the Department of the Environment and Local Government 1998, and is firmly grounded in an internationally recognised hierarchy

of options: prevention, minimisation, reuse/recycling and environmentally sustainable disposal of waste which cannot be prevented or recovered.

5.8. **RSES Eastern and Midland Region.**

5.8.1. The Waste Management Policy for the Region is contained in the Eastern and Midlands Region Waste Management Plan 2015 – 2021. The overall vision of the Regional Waste Management Plan is to rethink the approach taken towards managing waste, and that waste should be seen as a valuable material resource. The Plan also supports a move towards achieving a circular economy which is essential if the Region is to make better use of resources and become more resource efficient.

> RPO 10.25: Development plans shall identify how waste will be reduced, in line with the principles of the circular economy, facilitating the use of materials at their highest value for as long as possible and how remaining quantums of waste will be managed and will promote the inclusion in developments of adequate and easily accessible storage space that supports the separate collection of dry recyclables and food and take account of the requirements of the Eastern and Midlands Region Waste Management Plan.

5.9. **Eastern-Midlands Region (EMR) Waste Management Plan 2015-2021**

5.9.1. This provides a framework for the prevention and management of waste in a sustainable manner in 12 local authority areas.

The three key objectives of the Eastern-Midlands Region Waste Management Plan are:

> Prevent waste: a reduction of one per cent per annum in the amount of household waste generated over the period of the plan.
>
> More recycling: increase the recycle rate of domestic and commercial waste from 40 to 50 per cent by 2020.
>
> Further reduce landfill: eliminate all unprocessed waste going to landfill from 2016.

It sets out policies:

A1 - the hierarchy is central,

A2 - polluter pays,

A3 - contribute to the improvement of management performance across all waste streams through the implementation of policy actions and monitor progress towards national targets,

A4 - aim to improve regional and national self-sufficiency, proximity principle.

Plan targets include:

1% reduction per annum in the quantity of household waste generated per capita over the plan period.

Achieve a recycling rate of 50% of managed municipal waste by 2020

Reduce to 0% the direct disposal of unprocessed residual municipal waste to landfill in favour of higher value pre-treatment processes and indigenous recovery practices.

Policy:

Optimize the value of recycled and residual waste resources in the system to turn these materials into reliable sources of secondary raw materials for reprocessing and recovery.

E1 - future authorisations by the local authorities, the EPA and An Bord Pleanála of pre-treatment capacity in the region must take account of the authorised and available capacity in the market while being satisfied the type of processing activity being proposed meets the requirements of policy E2.

E2 - the future authorisations of pre-treatment activities by local authorities over the plan period will be contingent on the operator demonstrating that the treatment is necessary and the proposed activities will improve the quality and add value to the output materials generated at the site.

E19 - the waste plan supports the development of indigenous reprocessing and recycling capacity for the treatment of non-hazardous wastes where technically and economically practicable. The relevant environmental protection criteria for the planning and development of such services need to be applied.

G3 - ensure there is a consistent approach to the protection of the environment and communities through the authorisation of locations for the treatment of wastes.

G5 - ensure that the implementation of the regional waste management plan does not prevent achievement of the conservation objectives of sites afforded protection under the EU Habitats and Birds Directives

Strategic objective ‘C’ the region will encourage the transition from a waste management economy to a green circular economy to enhance employment and increase the value recovery and recirculation of resources.

5.10. **Directive 2008/98/EC,19/11/08**

5.10.1. This directive on waste lays down measures to protect the environment and human health by preventing or reducing the generation of waste, the adverse impacts of the generation and management of waste, and by reducing overall impacts of resource use and improving the efficiency of such use; which are crucial for the transition to a circular economy and for guaranteeing the Union’s long-term competitiveness.

It establishes a waste hierarchy:

-prevention;

-reuse;

-recycling;

-recovery for other purposes, such as energy; and

-disposal.

It introduces recycling and recovery targets to be achieved by 2020 for household waste (50%) and construction and demolition waste (70%).

5.11. **Guidance on Retention Requirements for Firewater Run-off, EPA 2019**

5.11.1. In carrying out the site separation exercise, explanation of and justification for the assessment areas chosen must be provided. As a conservative default, facilities can be separated into different assessment zones based on a minimum of two-hour fire walls (unless otherwise demonstrated, it must be assumed that a fire could last up to (if not exceeding) six hours), or a minimum of 15m separation distance between zones (conservative separation distance prescribed in HSG 176).

Where a firewater retention facility solution, outside of a dedicated firewater tank or pond, is proposed (e.g. WWTP tanks or storm water attenuation facilities), an

explanation is required of how this would affect the continued operation of the site during and after the fire event.

The amount of water likely to be used by fixed fire-fighting systems should be determined based on the equipment in situ. Assistance should be sought from the manufacturer, servicing company, and the insurer to obtain this information, if not available on site. Additional firewater produced by the fire brigade on site must also be taken into account.

Fire Service advice to the Agency requires an assumption of a minimum of a 6-hour fire, attended by 4 fire tenders, and the use of 2 hydrants. Consultation with the Fire Service is only required should you wish to deviate from these values. Consideration should also be given to post incident cooling water application, which the fire brigade may consider essential in some situations.

The 1 in 10 year 24-hour rainfall event data should be used to determine the rainfall that could coincide with a fire event.

All assumptions made in relation to calculation of rainwater contribution should be fully documented and justified.

All potential retention infrastructure, as outlined below, must be automatically activated in the event of a fire alarm being activated. Reliance on manual intervention to deploy retention is not acceptable. All retention ponds/tanks, etc., shall be maintained empty, or at least to a point where the required retention capacity is available.

A controlled burn is not an available option as the fire service is legally obliged to put out all fires.

5.12. **Offaly County Development Plan 2021-2027**

5.12.1. This is the operative plan. Relevant provisions include:

For certain regional roads the Council will adopt a restrictive policy in relation to new development in the interests of preserving the traffic capacity of these routes and in order to avoid the creation of traffic hazards. Table 8.4 ‘Restricted Regional Routes in County Offaly’, includes R400 - Rhode to county boundary toward Rochfortbridge, link to M6 – Reason: Carrying Capacity.

ENVP-09 - It is Council policy to facilitate the provision of adequate waste recovery and disposal facilities for the county.

ENVP-10 - It is Council policy to promote circular economy principles, prioritising prevention, reuse, recycling and recovery, and to sustainably manage residual waste. New developments will be expected to take account of the provisions of the Waste Management Plan for the Region and observe those elements of it that relate to waste prevention and minimisation, waste recycling facilities, and the capacity for source segregation.

ENVP-11 - It is Council policy to ensure that all waste disposal shall be undertaken in compliance with the requirements of the Environmental Protection Agency and relevant Waste Management Legislation.

ENVP-12 - It is Council policy to continue to fulfil its duties under the Waste Management (certification of historic unlicensed waste disposal and recovery activity) Regulations 2008, including those in relation to the identification and registration of closed landfills.

ENVP-13 - It is Council policy to require the provision of recycling infrastructure where it is considered necessary and will assess requirements for recycling facilities on a case by case basis as part of the development management process.

ENVP-14 - It is Council policy to require Construction and Environmental Management Plans (CEMPs) to be prepared for larger scale projects and this requirement shall be assessed on a case by case basis as part of the development management process.

Waste Management:

ENVO-05 - It is an objective of the Council to implement the Eastern-Midlands Regional Waste Management Plan 2015-2021; the Council’s Litter Management Plan and Waste Bye-Laws.

DMS-115 Waste Recovery/Deposition Sites includes:

Ensure that the proposed development does not impact significantly upon Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Natural Heritage Areas (NHAs), sensitive landscape areas, visual amenity, geology, heritage or cultural value, or areas at risk of flooding.

5.13. **Natural Heritage Designations**

5.13.1. Raheenmore Bog SAC (site code 000582) at the nearest point 5.2km south west of the subject site, is the nearest Natura site. The River Boyne and River Blackwater SPA 004232 and River Boyne and River Blackwater SAC 002299, are located nearly 15km away at the nearest point.

6.0 The Appeal

6.1. **Grounds of Appeal**

6.1.1. Two third party appeals against the planning authority's decision to grant permission have been submitted.

6.1.2. Claire Smale-Murray on behalf of residents of Rhode and Croghan community, has submitted an appeal. It includes:

Site selection

- The site selection process is stated to have been exhaustive and to have lasted since 2022. Although stated to have been selected on the basis of economic criteria, business criteria and environmental criteria, the selection seems rooted in economic value. Other sites identified are to be preferred.
    - Barnan, in nearby Daingean, is where Oxigen have an existing facility, the source of recent controversy over breach of their licence. The High Court ruled that they should accept only construction and demolition waste. It was not likely to have been a realistic option.
    - Tullamore sites are discussed by the appellant – eg. Derryclure landfill site and public recycling centre – 5km south of Tullamore, which is more accessible by road and less impactful on local roads. Derryclure and the other sites Cappincur and Axis Business Park, in proximity to Tullamore, would have offered significant benefits in terms of optimal location, for proximity to source, access and road condition. Irelands first pyrolysis facility, operated by Glanpower Ltd, will be in Derryclure. It will be an endpoint for municipal solid waste (MSW) which will be pre-processed at

the proposed Oxigen facility, making Derryclure an optimal location, with a small carbon footprint.

- Mullingar sites – at Clonmore and Newtown. The Soltec site in IDA business park would be ideal**.** Clonmore wastewater treatment plant is nearby. They did not discount this on environmental grounds, Soltec also conducted an environmental impact assessment and were granted permission. Competition is the reason it is not suitable.

- This site, almost 25km from the largest town in the county, will involve transportation of waste out to this rural site from towns, and back across the county for landfill or incineration.

Over industrialisation

- This site has been targeted and the area has been the subject of many large projects – which they list; representing an excessive level of industrialisation; and which imposes significant changes on the character and landscape of their village and surrounding area. It is essential that the cumulative effects are considered.

Socio-economic impact

- Both Rochfortbridge and Rhode villagers agree that there will be limited to no beneficial socio-economic impacts. No rental accommodation is available, such as to enable benefit from construction. Quarry workers are already employed and are not therefore an additional revenue. Operational traffic will not stop in the villages. They disagree that there will be economic benefit. Negative impact on house prices has not been considered.

- There is strong evidence that there will be a decrease in house value.

Lack of consultation.

- Public notices were erected when the road was closed to traffic. The applicants have made no attempt to engage with the community.

Roads, traffic and transport

- There will be significant construction traffic over a 12 month period, which may coincide with the construction of the nearby gas fired power plant, significantly underestimating impact.
- There will be a negative impact on the R400, which is a bog rampart road.
- Bog rampart roads frequently undergo considerable distortion due to low shear strength and the high compressibility of the peat foundation.
- Quoting from the National Oversight and Audit Commission (NOAC) 2018 and 2021 reports on roads, they state that Offaly was found to have the highest proportion of regional roads with the poorest Pavement Surface Condition Index (PSCI). The 2021 results are considered an underestimate, as 79% of Offaly's regional roads were surveyed. Of those surveyed 11.68% had a rating of 1-4, over 25% had a rating below 6, indicating localised or structural distress and surface defects.
- A map indicating the location and quality of roads is provided at figure 2. They state that this shows that the majority of the roads in East Offaly have a PSCI rating of 1-4.
- The R400 is a restricted route.
- They quote from a road condition report (2021) in relation to the R400 from a previous planning file (21/291). The report included a very comprehensive structural road survey of several sections of the R400 outlining engineering criteria including: central deflection (D1), surface curvature index (SCI) and deflection (D7) higher values of D1 and D7 are noted, indicative of poor structural condition and poor subgrade respectively. SCI values were in excess of 250 microns, indicating poor load spreading ability. Details are shown as a graph in Figure 7 of the submission.
- They don't accept the statement that it is reasonable to conclude that the existing receiving roads are suitable to accommodate the current volume of traffic arising. The PMS survey (Consultant's for Bord Na Móna) offers substantial weight of evidence to the community's argument that the R400 cannot withstand the level of sustained HGV traffic that would be entailed by the proposed development.

- The section of the R400 between Rochfortbridge and Mullingar (ie, in Westmeath) is in much better condition that in Co Offaly, which they attribute to a 5 axel ban.
- The increased HGV traffic from both the Yellow River Wind Farm development and existing quarries has negatively impacted road quality. The community strongly refute the conclusion that the proposed development does not have the potential to give rise to premature or unacceptable reduction in the level of service available to road users on national or regional roads or their junctions.
- The bridge over the Yellow River failed on 18th July 2023, causing closure of the R400, and is still awaiting repairs. This is one of two masonry arch bridges on the R400 in the vicinity of the proposed development. The road closure and the road diversions are degrading other roads.
- Over recent years the council have made numerous attempts to repair this severely damaged road and prevent further sinkage. All efforts have been acknowledged as a patching exercise. This road has been closed regularly.
- The more than 27,000 annual HGV movements into the development will directly impact on road users through sustained damage to the road surface and further damage to the bridges and margins. This stretch of road is not capable of supporting the degree of heavy traffic that the operations will trigger.

Increased traffic resulting from this development:

- The traffic surveys are outdated automatic traffic counter surveys conducted in September 2021. There has been a substantial increase in R400 traffic in the 2 years since. The road is not capable of supporting the existing traffic even without additional traffic. Trafficwise surveys for 2021 and projections for 2024, 2029 and 2039 show an increase from 71,000 to 102,000 through Rhode, over this period. This is conservative and does not consider the HGV traffic from development, such as the proposed Materials Recovery Facility.
- They estimate that 27,720 HGVs will enter the site annually (63 +14 = 77 HGV per day x 360) with 55,440 HGV movements in and out annually along

the R400. Most will be larger vehicles: 15-25 tonne lorries, based on the annual target of 90,000 tonnes. Waste from demolition and construction will be bulkier. The estimates do not factor in pre-processed biofuel to a biofuel processing unit; MSW from the facility to its final destination, and foul wastewater to an appropriate treatment plant.

- The road safety research has focused on the road from the site to Rochfortbridge, and has ignored Rhode village.13,860 HGVs will transit through the village annually, 40 per day; which are also likely to return through Rhode. This will negatively impact on village life.

Disregard for the current traffic calming measures implemented in Rhode

- It will conflict with the Active Travel Scheme in Rhode;.upgrades such as widening of footpaths and addition of pedestrian crossings in the village, shown in figure 12 of the submission. The increase in heavy truck traffic will increase risk to pedestrians.

Impacts on air quality

- Particulate matter generation from HGV traffic. Diesel vehicles have been shown to substantially contribute to overall emissions of particulate matter (PM). In addition HGVs have been acknowledged to account for 19% of Irelands annual GHG emissions. HGVs in Ireland are mainly powered by diesel, 45% of the national HGV fleet is over 10 years old. Biodiesel or biofuel is not the answer. The use of biodiesel is considered to increase NOx and GHG emissions. Increased PM emissions from biodiesel have been noted under certain conditions. HGV traffic can be linked to non-exhaust emissions (eg. from brakes, tyres, road surface).
- The increase in construction traffic has not been properly accounted for with regard to dust. This has already been observed from traffic associated with the YRWF site, the Kilmurray quarry and the Roadstone site. Roadside verges are dusted. There will be significant, sustained increase in dust and PM generation along the R400.

- They examine the wind direction for calmer conditions which would enable greater deposition of PM over shorter distances, showing wind from the north, which, they say, increases the risk of particulates entering the stream to the south. Higher wind speeds will carry dust father away. Potentially up to 2km.
- The operational phase will increase dust from mechanical loading and unloading of tipping waste, from stockpiles and storage, from wind scouring of waste surfaces, from handling and processing of waste through operations including crushing screening and blending, from shredding of green waste such as timber and from processing of construction and demolition waste and the potential release of man-made fibres such as asbestos. They give a breakdown of the types of airborne particles to be expected, in table 4 of the submission. The proposal lacks dust abatement and dust management proposals.

Carbon emissions

- CO_2 is the primary GHG. Ireland has committed to reducing its CO_2 emissions by 4.8% per annum between 2021 and 2025 under the first carbon budget. They disagree with the calculations presented by the applicants, of the CO_2 emissions from the diesel used on site, and present their alternative figures using conversion rates published by the Sustainiable Energy Authority of Ireland (SEAI). They state that the carbon emissions arising from the use of diesel on site is a thousandfold higher than those presented by Oxygen (175.8237718t CO_2 rather than 0.134t $CO_{2)}$).

Noxious Odours

- They are concerned that uncontrolled odours from waste facilities can impact nearby communities. Both brown bin material and domestic rubbish fall under the category MSW. The community has no faith that any attempts by Oxigen to mitigate these odours will be successful. They refer to a landfill site operated by Oxigen Environmental, a waste facility operated by Oxigen, and a site operated by Oxigen in Ballymount Dublin, which was the location of a 5 day blaze.

Impact on geology

- The underlying bedrock is a locally important aquifer. The vulnerability stated by Oxigen is moderate, as indicated on GSI mapping. Groundwater vulnerability should not be moderate but high, based on the ground conditions. There is no overburden, no peat and the gravel deposits are 10m deep, per invasive site investigation. They refer to a site proposed at Drumman for a similar development, where the vulnerability was deemed high. In the Firewater Risk Assessment carried out by Fehily Timoney as part of this proposal bundle, vulnerability is classified as high. It is crucial that any proposed development considers the potential impacts on the groundwater supply and ensures adequate protective measures.

Impact on hydrology and water quality

- Appellants are concerned about flood risk, surface water management, wastewater discharge and environmental contamination. The Yellow River and Big River are close to the site; all part of the Boyne system, which the proposed development puts at risk. A contributing stream runs within 6m of the site. This is an exceptional risk compounded by the fact that Oxigen intends to construct concrete channels at the edge of the site to allow run-off into this contributary stream.

Potential pollution during in-channel works

- Concrete run-off entering the stream is a concern. Concrete material can clog fish gills; increase turbidity, reducing the amount of sunlight reaching submerged aquatic vegetation, which will impact on oxygen available to the aquatic environment; and increase the pH levels.
- They query the effectiveness of pea gravel combined with a geosynthetic textile in preventing water entering the site of work. It is not suitable as a dam-like structure; more suitable for erosion control. There is the danger of concrete passing through. Pumping of water to a downstream section of stream endangers aquatic species.

Surface water and run-off management

- Rainwater falling on waste, is industrial wastewater.

- Collection of rainwater in tanks gives rise to an elevated potential for the accumulation of contaminated rainwater, accidental overflow and risk, if used as firewater. Risk of hydrocarbon runoff.
- Spill kits may be of limited use. Immediate detection is unlikely. Hydrocarbons have the potential to enter the existing watercourse, located less than 80m away.
- The Yellow River waterbody status is 'at risk'. There is naturally occurring ammonia in receiving waters at industrial cutaway peatland. Concentrations greater than 0.065mg/l threshold would mean the water body would fall short of good ecological status. A more detailed evaluation of the proposed wastewater discharge's potential effects on water quality and aquatic ecosystems is warranted.
- The wastewater treatment plant at Clooncur road, Rhode, releases treated wastewater into the Coolcur stream. Cumulative impact should be assessed.

Increased Flood Risk

- Even a slight increase in river flow may have significant consequences downstream. The absence of a comprehensive flood risk assessment raises concerns not only for the immediate site but also the broader downstream environment, and neighbouring developments should be addressed.

Wastewater Management

- A collection tank is proposed to collect run-off from external waste storage bays for offsite disposal. This indicates the lack of inherent capability to treat foul water on-site. There is potential for untreated and contaminated wastewater to enter the Yellow River in the event of an accidental leak or overspill. It sets a worrying precedent. On-site monitoring, safe transportation, the strain put on the treatment plant by the volumes of wastewater generated, and comprehensive safety precautions to address the possibility of accidental release, must all be addressed.

Presence of a groundwater well

- The existence of a proposed well on the site introduces a groundwater vulnerability. Risks include groundwater contamination from increased

vulnerability, and groundwater level changes from drawdown, and the need for monitoring and mitigation.

- The locations of the rainwater collection tank and wastewater collection tank, in relation to the well, is problematic in relation to other groundwater supplies.
- Proximity to Toberdaly well (4.4km), which has a public supply resource protection area, is of concern. This is the largest groundwater source in Co. Offaly. The underlying karst-like landscape carries the potential for unrecognised preferential pathways. The water in Toberdaly Springs is 2^0 warmer than the average expected groundwater temperature. This suggests a geothermal origin, suggesting potential connection between the volcanic hills to the west, particularly Croghan Hill, and the western strip of Allenwood Limestone. 'Hudson' proposed that water flows from the volcanic hills and moves underground, confined beneath the Calp geological formation, ultimately surfacing upon contact with the Allenwood Formation, via an unseen major fault. This raises significant questions about the potential impact on this geothermal aquifer system. The factors influencing recharge must be considered.
- They request a comprehensive hydrogeological assessment.

Impact on flora and fauna

- They consider that the site flora / fauna survey was extremely limited in scope and that a more substantial review is warranted.

Inadequate survey of avian species on site

- Results of the Bat Survey - No sightings or evidence was recorded. This the community dispute. A survey in 2013 identified 5 species at Derryarkin. They consider the survey submitted requires validation.
- They challenge the finding that no whooper swans were recorded on the site.
- The YRWF survey found solid evidence regarding the presence of whooper swans. They travel to the same areas each winter, therefore previous surveys recording their presence can predict future visits.

- The YRWF survey concluded that the improved grassland at Derryarkin farm provided suitable habitat for whooper swans. The survey in that study was carried out at the correct time. Feeding grounds are less than 300m away. Noise from daily activities will disturb their feeding patterns. The appellants demand a full, complete, comprehensive, independent wildlife survey.
- Seabird populations are important in the context of Derryarkin. In 2014 Bord na Móna engaged consultants to conduct a survey of Derryarkin. The 2000 Seabird census gives a population of 13,983 pairs, with the bulk in Northern Ireland. The estimated 150 pairs (possibly 200) at Derryarkin, exceeds the 1% of the national threshold, to make it of national importance.
- Other birds noted in the Bord na Móna survey are listed.

Inadequate survey of aquatic species

- Due to proximity and drainage to the stream linking to the Yellow River, Mongagh River and SACs, it requires a robust design and no leeway for doubt.
- They refer to a lamprey study and include, as figure 24, a map of the sites surveyed in the River Boyne catchment. The Yellow River is an important site for the conservation of lampreys. Given its conservation status and potential utility as a spawning ground it should be considered a sensitive receptor.
- White-clawed crayfish is globally threatened and Ireland holds one of the largest surviving populations. Crayfish were found in the Castlejordan / Mongagh river in 1977-1986 and none in 2000. Sightings have since been reported throughout the Mongagh / Yellow River.
- Salmon occurs in these watercourses. Salmon of all stages of the lifecycle would gain access to the Yellow River. Several sections of the Yellow River offer good salmon spawning and nursery habitats.

Impact on cultural heritage

- The community perceives negative impact.

Archaeological impacts

- Archaeological material discovered in the area is referred to. No archaeological excavations have been undertaken. Peatland and reclaimed peatland have been designated as areas of archaeological potential.

Cultural Impact

- They are concerned re. the proposed Lough na Shade Amenity Area and Croghan Greenway extension. Rewetting and rewilding of Lough na Shade would then be feasible, in line with EU Nature Restoration Law, etc. They refer to the Council's purchase of land at the top of Croghan Hill, connecting to the existing greenway network and ultimately the East Offaly Wilderness corridor. The just transition fund and an allocation for Tracks and Trails, is also referred to.
- The viability of these measures would be seriously impeded by the proposed development, and in direct contravention to the commitment of returning the damaged peatlands to their original state.

6.1.3. Cathryn Whelehan, on behalf of concerned residents in Rochfortbridge (list of names given) has submitted an appeal. It includes:

- Inadequate notice – the road closure is referred to in this regard.
- Site selection is inadequate for the location of the proposed landfill due to proximity to a high tourist amenity area, sensitive ecosystem and inadequate road network.
- Significant adverse effects on amenities of adjacent occupiers – unacceptable emissions of noise, fumes, dust, water and soil pollutants, grit and vibration.
- The massive amount of truck movements through Rochfortbridge and Rhode and other adjacent towns with high school going populations and narrow streets.
- The access road is narrow; barely wide enough for two cars, and already has serious industrial traffic.
- Negative impact on rivers, lakes and watercourses.
- Negative impact on plans for a bog walk area adjacent to this site, planned by Bord na Móna and Westmeath Co Council: to use the bog area and woodland and river and nature walks around Rochfortbridge for amenty and tourism. They have

serious concerns about the ability of any company to restore such an area to its natural state.

- Landfill is the least preferred option of every modern waste plan. It is a stone age solution to a 21st century problem.

- Health impacts, particularly re. respiratory ailments; the odours can be very nauseating.

- They are concerned that the massive amount of conditions could ever be adhered to. EPA oversight is minimal and Offaly has one of the lowest rates of environmental oversight and prosecution in the country. The level of waste, nuisance control and aftercare will be impossible to police.

- A summary of other concerns is listed.

6.2. Applicants Response

6.2.1. Fehily Timony have responded on behalf of the applicants to the grounds of the appeals. The response includes:

- Principle of the development:
  - The need for the proposed development and how the proposed development accords with policy is demonstrated in chapters 2 and 5.
  - It is implied that the proposed development is a landfill. The proposed development is a materials recovery facility.
- Site location and selection:
  - Site selection is set out in Section 3.3.2 of the EIAR. The applicants have examined and considered several potential site locations. Business, economic, planning and environmental factors were considered as set out in table 3.1.
  - Cumulative impact has been considered in section 1.4 and appendix 1.1.
- Scoping and consultation:

- Consultation took place with the planning authority, the EPA and a wide variety of stakeholders. Information on scoping and consultation is given in chapter 6.
- Public notification is set out.

- Traffic and transportation:
  - A significant proportion of HGV traffic will be for import of aggregates, which will be sourced from the adjoining quarry and will not travel on the public road. Save for deliveries from local businesses, traffic will use the M6 Motorway, Junction 3, and the 4km of R400.
  - During the operational phase, the associated traffic effects on the R400 is generally 2%, save for the 4km section between the junction and M6 which is likely to be in the order of 6%. The typical threshold value for TIA is 10%.
  - The applicants have committed to co-ordinating construction activities so they are not concurrent with days when there is programmed intensive activities from Yellow River wind farm. Condition 12 requires the implementation of a Construction Environmental Management Plan (CEMP) which in turn requires the preparation of a Construction Traffic Management Plan (CTMP) following appointment of the Contractor. The need to agree a CTMP is not expressly included in the schedule of conditions and they would invite its inclusion.
  - Quality of R400 - planning file, 21/291, refers to Edenderry Power Station. Condition no. 9 requires further road condition surveys and works to the associated haul routes, including the R400. Chapter 12 of the EIAR states that OCC, the Roads Authority, has significant up to date and appropriately detailed road condition surveys (listed) for the R400 to inform a structural pavement strengthening program. In addition, the permission granted in 2014, 19.PA0032, for Yellow River Wind Farm, at condition no 8, requires detailed road condition surveys of the R400 both before and after construction. Construction has commenced, and it is reasonable to expect that the prior to commencement survey has been provided.

- ‘Junctions’ are assessed for capacity in section 13.6.2, and ‘links’ in tables 2.1, 2.2 and 3.2. The impact of the operational phase on road capacity is not significant. Junction improvements with the R400 accord with the road safety audit.
- Each permitted developments, considered traffic impacts. Roads Design and the Area Engineer had no objection to these permitted developments.
- The traffic data was collected in 2021 and was less than one year old on the date of receipt of the application. It included manual classified counts and weeklong traffic counter classified counts, validated against permanent TII traffic monitoring on the M6. It accurately captures the baseline. The appellant does not support the assertion that the data is obsolete.
- Traffic generation – the basis for the figures used in the EIAR is referred to: daily traffic is based on 275 working days with an average of 53 HGV trips per day and an annual 14,628; not 53 x 360 as used in the appeal. Figures in chapter 13 are further supported in the response. Traffic is assumed to be entirely new and allowance could have been made for pass-by traffic and diverted traffic, which would have reduced the figures. No processing or production of biofuels is proposed.
- Road Safety Authority data – the data referenced is for the full length of the R400.
- Traffic Calming Measures in Rhode – these are the responsibility of the Road Authority. The response refers to media reports which refer to the carrying out of traffic calming measures, and the suspension of these traffic calming measures. The traffic calming measures were advertised after the application was made and could not have been considered by the applicant.

- Air quality and climate:
  - Chapter 11 is referenced re. air quality and traffic.
  - Construction dust – The Institute of Air Quality Management, Guidance on the Assessment of Dust from Demolition and Construction (IAQM 2016), is

recommended by TII for use. At 800m from the site boundary the Yellow River is outside the boundary of potential dust impact. There are no sensitive receptors with respect to construction dust.

- Operational dust – an Operational Dust Management Plan will be developed to ensure that there are no impacts due to dust. All waste will be stored indoors or within a closed bay outdoors, with waste processing and storage areas subject to washdown on a daily basis during operations. Regular cleaning of outdoor surfaces will occur and no exterior stockpiles are proposed. On dry and / or windy days, or in the case of waste presenting on-site which is particularly light and dispersive, this waste will be lightly wetted to prevent dust generation, per 11.5.2.2 of the EIAR. Dust monitoring will be undertaken. Hazardous waste will not be accepted. Dust impact from the adjacent quarry has been mitigated.
- Carbon emissions – the typo noted in the appeal is acknowledged as are discrepancies between the 2019 Report on Diesel and Alternative Fuel Bus trials (used in the EIAR) and SEAI figures. The CO_2 annual figures are 173 tonnes annually per EIAR source, and 175 tonnes per SEAI. This will reduce as additional biofuels are added to diesel and other improvements are made. A TII guidance document, published since the application was made, recommends an approach for determining significance (construction and operational phases) based on 'do something' and 'net project GHG emissions to relevant national carbon budget'; which method of assessment they have used. Compared to the net carbon budget for 2030 of 4MtCO_2e for the industry, the proposed CO_2 from diesel emissions is 0.0043% of the industry carbon budget. Table 6.7 is referred to as are the factors: the extent to which the trajectory of GHG emissions from the project aligns with Irelands GHG trajectory to net zero by 2050; and the level of mitigation taking place. Diversion of waste from landfill, by providing a facility to sort and recover C&D and MDR prior to onwards recycling or recovery, is in line with key policy for waste set out in the Climate Action Plan. The potential to offset 40,752 tonnes of carbon emissions annually is set out in section 11.5.2.4 of the EIAR. Mitigation of

diesel usage includes, regular maintenance, upgrading to best available technology and ‘no idling’.

- Odour emissions – an odour management plan will be developed and kept up to date. Odour modelling shows that no nearby receptors are predicted to experience odour nuisance. The existence of the piggery is mentioned.

- Geology and hydrogeology:
  - Protection of the geological and hydrogeological environment was an inherent aspect of the proposed facility’s design. Specific measures during construction are detailed in the CEMP and will be further enhanced through implementation of a site EMS by the appointed contractor. During the operational phase, there is no proposed direct discharge to groundwater, other than that from the domestic wastewater treatment system. Re. comments on returning peatlands to their original state, the subject site is a brownfield site which has been developed and utilized, and not a greenfield peatland site. The context of the existing commercial and industrial activity is referred to.
  - Presence of a groundwater well – the appellant’s concern regarding the risk to groundwater from the on-site well is without merit. There are several wells in existence on site, all suitably sealed and capped, removed from polluting material and with drainage arrangements which divert potentially polluting material to retention tank.
  - Re. the risk to East Offaly Water Supply – the proposed development will not result in the discharge of polluting material to the groundwater or water environment. The receptor, discussed by the appellant, is well removed from the zone of influence of the proposed development.

- Hydrology and water quality:
  - Drainage and water control – the identification of the potential hydrological connection between the site and watercourses was a fundamental aspect of the assessment. The presence of a drainage channel immediately opposite and in close proximity to the southern boundary was a key consideration in determining the potential risks, designing the facility and

identifying appropriate mitigation measures. The Yellow River and River Boyne were identified as relevant receptors. Chapter 10 of the EIAR and conditions 13, 19, 20 and 21 of the PA's decision are referred to. The drainage management arrangements are described in chapter 4. Only uncontaminated stormwater will be discharged from the site to the receiving environment.

- Flood risk – the site is not located in a flood risk zone. Attenuation is provided for a 100 year storm event + 20% climate change allowance. Surface water discharge will match greenfield rate.

- Biodiversity:
  - Avian species – Whooper Swans – re. the concern that the survey was conducted on 17th June 2021, an inappropriate time. Specific surveys were conducted over an appropriate time period between November 2020 and April 2021, as stated in section 8.2.5.4.1. The results in appendix 8.5 include confirmation of the presence of whooper swans in the study/survey area on 3 of the 6 survey dates.
  - Aquatic species – the reference to protected species including lamprey, white-clawed crayfish and salmon, as being at risk; they were identified in chapter 8. Table 8-16 classifies them as key ecological receptors. Potential impacts that could arise during the construction phase are assessed in section 8.4.2.3.5, and operational impacts in section 8.4.3. Operating under a WFP and or IE licence adds a significant level of oversight and regulation, ensuring a satisfactory level of environmental protection. With the proposed mitigation measures, the residual impact on aquatic ecology during the construction phase was determined to be 'not significant in the local context'. With the proposed design and mitigation measures, the residual impact on aquatic ecology during the operational phase is considered to be 'imperceptible in the local context'.
  - Bat assessment – desk study and survey conducted 17th June 2021. The desk study recorded 4 species of least concern. No records within 2km. The survey found no evidence of bat presence and negligible suitability as roosting structures. The small treeline of cypress and elder within the

western site section are of insufficient size to contain potential roosting features and no features were seen. Further trees within 50m are immature and do not contain potential roosting features. No evidence or sightings were recorded.

- Archaeology - archaeological monitoring during construction is a standard mitigation.
- Recreation and Amenity- re. the proposed Lough na Shade amenity area and Croghan Greenway Extension – the concern that the proposed development will lead to the abandonment of this amenity, is not reasonable and is without merit. A robust assessment of the proposed development on cultural heritage and on landscape and the visual environment is included in chapters 14 and 15, and demonstrate that the proposed development will have no impact on recreation and amenity assets. Viewpoint 1, located on the peak of Croghan Hill, 3.6km from the proposed site, is assessed. No sensitive, public viewpoints are noted within 1.5km of the site, owing to how removed and insulated the site is from public receptors.
- Robustness of the EIAR – responding to the allegation of weaknesses in the EIAR, the applicants state that the EIAR and all supporting documentation are highly robust.
- Condition no. 17 – the operating hours per condition no. 17 are referred to. The operating hours proposed in the EIAR section 4.3.4.3.1 are referred to as being in line with operational timeframes for similar facilities in the region. The operating hours, in particular the hours of waste acceptance, are needed by the applicants to facilitate their hours of waste collection, as allowed under their Waste Collection Permit and the Waste Management (Collection Permit) Regulations (as amended). They are required to ensure satisfactory and competitive delivery of waste collection services in the region, and the Board are requested to amend the condition. It is noted that WFPs or IE licences are more suitable vehicles for prescribing waste management facility operational hours.

6.3. **Planning Authority Response**

6.3.1. The Planning Authority has responded referring the Board to the technical reports on the file and requesting the Board to support its decision.

6.4. **Observations**

6.4.1. Keith Kavanagh on behalf of Rhode & Croghan Residents Association, has submitted an observation on the grounds of appeal, which includes concerns regarding:

- Road condition based on survey provided for PL 2/21/291.
- In Westmeath there is a 5 axel ban on the R419, a continuation of the road (R400), which is in better condition.
- Traffic data is out of date.
- Traffic through Rhode will be 50% of the growth in HGV traffic through the village.
- Condition no. 8 of 19.PA0032 requires prior to commencement condition surveys. The Council should ensure these surveys have been undertaken and are considered prior to decision.
- The developer states that groundwater vulnerability is moderate due to the presence of low permeability deposits of peat, but also that no peat was noted during the site investigation. These are contradictory statements.
- A tributary of the Yellow River is opposite the site entrance.
- The shortest distance from Edenderry to Rhode (R441) is 12 km whereas the designated route R402 is 20kms. The observers do not believe that the designated route will be used; it would mean that travel would be an extra 125,472kms.
- Contradictory AADT figures for this development for ‘do nothing’ and for PL 2/21/291 are referred to: 3976 is the figure given in this file, 2444 is the figure given in 21/291 and the % of HGV’s is given as 6.9% v 15.1 %. They have no confidence in the figures.

- 30% of the municipal waste will come from Newbridge and Naas; that is not sustainable.
- The site selection is not robust. It does not give adequate consideration to cumulative impact.
- They are concerned re. the lack of public consultation.
- They are concerned re. the compliance history of the developer.
- Independent monitoring is required but not proposed.
- Failure to survey the site when protected species would be expected to be there is of concern.
- It is at the foot of Croghan Hill.
- They are concerned at the effects of cumulative development on local residents.

7.0 **Assessment**

7.1.1. I consider that the main issues which arise in relation to this appeal are appropriate assessment, principle of the development, notification / consultation, need and location, impact on surface water and groundwater, impact of traffic on roads in the vicinity, impact on protected species, impact on the amenities of residents and communities, impact on visual amenities, historic landscape and cultural heritage, impact on air quality, climate impact, and other issues and the following assessment is dealt with under those headings.

7.2. **Appropriate Assessment**

7.2.1. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site, there is a requirement on the Board, as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision.

Screening for Appropriate Assessment & Appropriate Assessment Stage 2

7.2.2. An Appropriate Assessment Screening Report and a Natura Impact Statement accompanied the application. Appendix 2 to this report details my assessment under this heading.

Appropriate Assessment Screening

7.2.3. I conclude that the proposed development would have a likely significant effect 'alone' on the protected sites River Boyne and River Blackwater SAC (site code 002299) River Boyne and River Blackwater SPA (site code 004232) in view of their conservation objectives and that appropriate assessment is required.

Appropriate Assessment

7.2.4. Having carried out appropriate assessment I conclude that, on the basis of the information provided with the application and appeal, including the Natura Impact Statement, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European sites No. 004232 and 002299 in view of the sites' Conservation Objectives. In such circumstances the Board is precluded from granting permission.

This conclusion is based on the lack of certainty in relation to firefighting, use of water for firefighting and its containment/disposal and the inadequacy of proposed monitoring of surface water discharges; such that reasonable doubt remains as to the actual effects of the proposed development on the conservation objectives and site integrity of the protected sites.

7.3. **Principle of Development**

7.3.1. The site is not zoned. The site is located in a stronger rural area; which designation mainly refers to rural housing development and it's control.

7.3.2. Development Management Standards for Waste Recovery / Deposition Sites are given in DMS-115. The proposed development complies with the listed requirements.

7.3.3. Policy ENVP-09 - states that it is Council policy to facilitate the provision of adequate waste recovery and disposal facilities for the county.

7.3.4. The R400 is a restricted regional route because of its carrying capacity. As pointed out in the response to the grounds of appeal, this policy is one of limiting development and not one of preventing any development.

7.3.5. In my opinion the proposed development is acceptable in principle.

7.4. Notification / Consultation

7.4.1. Lack of consultation and deficiencies in notification are issues of concern to observers to the planning authority and are raised in the grounds of appeal and observation. It is stated that public notices were erected when the road was closed to traffic. This issue is related to the failure of a bridge over the Yellow River, on 18th July 2023, FI response received 11th July 2023, and notices were erected 2nd August 2023 and was raised with the planning authority during the course of the application. It led to the planning authority requiring the erection of further notices, which were erected on the 4th September 2023, when the road was open to traffic. In my opinion there is no reason for concern regarding the public notification process. It should be noted that it achieved the objective of making known to interested parties the planning application, and the receipt of significant further information.

7.4.2. In response to the complaint in the grounds of appeal of lack of consultation, the applicants have responded, identifying the parties: public authorities etc, which they consulted. The concern of objectors is that no attempt was made to engage with the community. However there is no obligation on an applicant to engage with the community. The application process is intended to engage the community and facilitate their involvement in the process, as it has.

7.4.3. Notification or consultation should not be reasons to refuse permission.

7.5. Need and Location

7.5.1. The need for a facility at this location is of concern to objectors and is raised in the grounds of appeal and observation.

Need

7.5.2. Chapter 2 of the EIAR deals with the need for the proposed development. The waste management sector has transitioned from being heavily ‘landfill dependent’ to one in

which the role of landfill disposal as a waste management option is diminishing. This reflects the requirements and objectives of European and National legislation and policy, where waste management activities are focused on the higher tiers of the waste hierarchy (eg. waste recovery, waste recycling). Consequently there has been a dramatic reduction in landfilling capacity in Ireland. This reduced landfill capacity has not yet been fully offset by an increase in waste management capacity at waste recovery or recycling facilities. There is a need for additional Materials Recovery Facilities to promote the separation, recovery and recycling of wastes, in support of Circular Economy related objectives.

7.5.3. Table 2-1 of the EIAR provides figures, taken from the regional waste management plans for the three waste regions: Connaught / Ulster, Eastern / Midlands and Southern Regions including the projections for waste to 2030. The EPAs National Waste Statistics report from 2019 identifies that 3.2m tonnes of municipal waste was generated in 2019. 40% of municipal waste was exported for final treatment that year, highlighting a deficiency in municipal waste processing nationally, and the need for additional capacity. It is stated that the proposed facility will accept, process / pre-treat and bulk, municipal waste generated in the Midlands region as well as surrounding regions, thereby contributing to meeting this current need and future need on both a regional and a national scale. Population growth and the associated increase in waste generation is referred to in this regard.

7.5.4. The refer to the need for MSW pre-treatment – the EPA requires all MSW sent for energy recovery or disposal to landfill to have been pre-treated to ensure all recoverable / recyclable content is extracted. The proposed development is designed to support meeting these requirements.

7.5.5. The increase in capacity in thermal recovery facilities nationally is referred to, and the need for material supplying such thermal recovery facilities, to be subject to pre-treatment, which the proposed facility will address.

7.5.6. It will ensure that recyclable C&D waste fractions will be sent for onward recycling, which is higher up on the Waste Hierarchy than recovery through inert landfilling. The proposed facility will serve to separate C&D waste fractions, thereby allowing certain C&D waste fractions to be sent for onward re-processing and recycling where feasible, rather than being sent for recovery through inert landfilling.

7.5.7. To illustrate the need to provide for C&D waste capacity, the report 'Construction & Demolition Waste – Soil and Stone Recovery/Disposal Capacity'[1] is referred to, which identifies a shortfall in capacity for C&D soil and stone. The proposed facility will accept, separate, and promote the recovery and recycling of a variety of C&D wastes including timber.

7.5.8. The facility will be the applicant's first waste management facility in the Midlands region (Offaly, Laois, Kildare, Westmeath) authorised to accept MSW. At present the applicants rely on more distant third party waste management facilities to accept the MSW it collects from its kerbside collections.

7.5.9. I am satisfied that need exists for a materials recovery facility.

Location

7.5.10. The grounds of appeal states that this site is almost 25km from the largest town in the county and will involve transportation of waste out to this rural site from towns, and back across the county for landfill or incineration. It states that other sites identified by the applicants as alternatives are to be preferred.

7.5.11. Chapter 3 of the EIAR refers to alternatives. With reference to the selected location, it is stated that the process of selecting the most suitable site in the midlands for the development of a Materials Recovery Facility was very extensive and has lasted since 2011. Table 3-1, in chapter 3, includes an outline of the environmental considerations; the reasons for not proceeding with each alternative site is summarised in the final column. Of the 7 alternatives which are assessed, 5 can be seen to have been discounted based on environmental considerations. In the other 2 cases the basis for not proceeding with development is given as:

> the details given for the site at Flynn's, Newtown, Mullingar are that the applicants were outbid during the site purchase bidding process. The purchase of the site at or above the sold price and the retrofitting of the facility to accommodate waste management operations was not determined to be economical by the applicant;

[1] Construction and Demolition Waste: Soil and Stone Recovery/Disposal Capacity report was published in December 2016. It was commissioned on behalf of the regional waste authorities to analyse the national waste capacity market for the safe treatment of soil wastes, defined as clean inert soil and stone waste arising from construction activities.

the details given for the site at Clonmore Business Park, Mullingar are that the applicants were outbid during the site purchase bidding process. The purchase of the site at or above the sold price and the retrofitting of the facility to accommodate waste management operations was not determined to be economical by the applicant.

7.5.12. I agree with the grounds of appeal, that the purchase price is not an environmental consideration.

7.5.13. A description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment, is a requirement of EIAR. This is intended as a means of improving the quality of the environmental impact assessment process and of allowing environmental considerations to be integrated at an early stage in the project's design. Since the criteria by which these two sites were discounted was unrelated to the effects of the project on the environment, the Board may consider that these sites should not have been put forward as valid or reasonable alternatives. Notwithstanding such a conclusion, other reasonable alternatives, based on environmental considerations, were studied by the developer.

7.5.14. The appellants in their critique of the selected alternative, question why the Derryclure site (near Tullamore) would not have been considered as suitable, since it was deemed suitable for expansion of the landfill site. I consider the applicant's stated reason: the inadequate ground and subsurface characteristics to support the foundations required for the proposed facility structures, to be valid environmental grounds. The appellants state that one of the identified sites at Tullamore or Mullingar would have the benefit of proximity to a waste source, and that the Mullingar site, at Clonmore, would have the benefit of proximity to a wastewater treatment plant, for dealing with collected wastewater. I consider the applicant's stated reason for discounting the second Tullamore site, road infrastructure and the extensive effort and cost associated with diverting existing surface water drainage channels, to be valid environmental grounds. The Clonmore site has been referred to earlier as having been discounted for reasons unrelated to the effects of the project on the environment.

7.5.15. The National Waste Management Plan for a Circular Economy 2024-2030 includes guidance for siting materials recovery facilities, which includes that the location is to be within 10km of a national road. The subject site complies with this requirement. It also recommends as important considerations access to feedstock and access to end-markets and advises that a rural location may be a significant obstacle for this facility type.

7.5.16. The Eastern - Midlands Region Waste Management Plan 2015 - 2021 requires:

> E1 - Future authorisations by the local authorities, the EPA and An Bord Pleanála of pre-treatment capacity in the region to take account of the authorised and available capacity in the market while being satisfied the type of processing activity being proposed meets the requirements of policy E2.
>
> E2 - The future authorisations of pre-treatment activities by local authorities over the plan period will be contingent on the operator demonstrating that the treatment is necessary and the proposed activities will improve the quality and add value to the output materials generated at the site.

7.5.17. The applicants refer to kerbside collections carried out by them, but do not state where they are carried out. To the extent that the facility is proposed to serve the Midlands region (Offaly, Laois, Kildare, Westmeath), while not located close to any large town, it is suitably located as a shared facility serving many of the larger towns in the region. As described in chapter 2 of the EIAR, it is also intended that the facility will address deficiency in capacity in thermal recovery facilities nationally. It's location, close to the Motorway, may reflect an intention to serve a larger market. It should be noted that the proximity principle is enshrined in policy (e.g. in such documents as 'A Resource Opportunity, Waste Management Policy in Ireland' 2012, the 'Eastern-Midlands Region Waste Management Plan', 2015-2021, and the 'National Waste Management Plan for a Circular Economy', 2024-2030).

7.5.18. The documented need is given in figures only. The Board may consider that the spatial distribution of existing and future/planned facilities should have been addressed in the application. In my opinion, in the context of the significant under capacity identified, this is not the important consideration that it would be were more facilities currently available.

7.5.19. The Board should note that the ‘National Waste Management Plan for a Circular Economy 2024-2030’, was published (1 March 2024) since the application and appeal / responses were made.

7.5.20. I consider that a materials recovery facility, is a reasonable extension to the applicant’s established waste acceptance activities in the Midlands, and that this is a reasonable location from which to serve a number of larger towns, therefore I consider that the proposed development is acceptable, based on need and location.

7.6. Impact on Surface Water and Groundwater

7.6.1. The impact on surface water and groundwater is of concern to observers to the planning authority and is raised in the grounds of appeal and observation.

7.6.2. The surface water discharges to a salmonid river system which is also an important habitat for other protected species, and has a downstream SAC/SPA.

7.6.3. Inland Fisheries Ireland made a submission to the planning authority expressing concerns regarding the proposed works at the discharge point; and also that the development may affect the potential restoration of better water quality in the Yellow River which has currently ‘bad’ status, having disimproved from ‘moderate’ status in 2018. Noting that it should have been restored to at least ‘good’ status by the end of 2015.

7.6.4. The risk to the aquifer and to a public water supply source, is raised as a concern in the grounds of appeal. The public water supply source at Toberdaly well, 4.4km from the site, is stated to be the largest groundwater source in Co Offaly. The grounds states that the underlying karst-like landscape implies the potential for unrecognised preferential pathways; that warmer than expected groundwater temperature suggests a geothermal origin; with a potential link with the volcanic hills to the west, particularly Croghan Hill, indicating a closer connection between the public water supply source and the subject site than the resource protection area, which is a considerable distance away.

7.6.5. The grounds states that the applicants wrongly identify the groundwater vulnerability as moderate.

7.6.6. The site is underlain by a bedrock aquifer, the Athboy GWB, which is mostly, 97%, classified as Ll, a locally important bedrock aquifer, moderately productive only in local zones; a small area, 1.2 %; is Pi, a poor unproductive aquifer.

7.6.7. The application details note that the groundwater vulnerability is given in GSI mapping as 'moderate' due to the presence of low permeability deposits (peat) (GSI mapping indicates a total thickness of overburden of 5 to 10 metres) but their intrusive site investigation indicated peat was not present at the site, and a layer of gravel, greater than 10m, was present. They have reclassified the vulnerability of the site from 'moderate' based on the GSI, to 'high' based on the sandy gravel at the site.

7.6.8. The site is within the Yellow River sub-catchment. Its confluence with the River Boyne is approx. 4.6km north-west of Edenderry town. The Yellow river is 'at risk' and water quality is 'bad' (incorrectly stated as 'poor' in the EIAR due to less than good biological status and elevated phosphate and ammonia). It is stated that peat extraction significantly impacts water quality throughout the sub-catchment.

Impacts

7.6.9. The impacts of concern in relation to surface water and groundwater include:

during construction:

- contamination of runoff by sediment, cementitious material and hydrocarbons;
- instream works.

during the operational phase:

- normal operational traffic and other traffic necessary for the maintenance of the proposed development may result in minor leaks or spills of fuel/oil;
- storage of fuel and oils on site, on-site refuelling activities, traffic movement along site access road may result in discharge of silt laden run-off to drainage channel to the south of the site, pooling and insufficient percolation from the installed wastewater treatment system, which will consist of a secondary treatment / soil polishing system, due to inadequate maintenance procedures which may result in increased ammonia and phosphorus migration to groundwater and eventually to surface water, external storage of green waste giving rise to foul water;

- risk or accidents.

7.6.10. Mitigation measures to protect against potential impact on water is given as mitigation by design together with minimising identified impacts by the application of principles of avoidance, prevention, and protection.

7.6.11. Mitigation of construction impacts, include:

The construction works will be designed, overseen and checked by geotechnical and civil engineers, suitably qualified and experienced in excavation and earthworks design and construction methodologies.

Any excavation and construction related works will be subject to a design risk assessment at detailed design stage to evaluate risk levels for the construction, operation and maintenance of the works. Identified impacts will be minimised by the application of principles of avoidance, prevention, and protection.

A method statement for each element of the works will be prepared by the Contractor prior to any element of the work being carried out.

The contract will require programming of the works, such that earthworks are not scheduled during severe weather conditions. Where such weather is forecast, suitable measures will be taken to secure the works. The Project Manager is the person responsible for determining when works are to be stopped due to weather.

A Construction Environmental Management Plan (CEMP) has been prepared for the proposed development and is included in Appendix 4.3 of Volume 3 of the EIAR. Measures for the protection of soils, geology and hydrogeology are defined in this CEMP.

A comprehensive set of sediment and cement control measures will be implemented during construction to prevent the entrainment of sediment or cement in surface water and the run-off of this surface water to the drainage channel to the south of the site.

A comprehensive set of mitigation measures will be implemented during outfall construction works to prevent these works impacting the drainage channel to the south of the site. Measures such as the use of silt fence and drip trays will serve to protect the drainage channel during these near and in-stream works.

Some works will need to take place within the drainage channel during headwall construction. The surface water drainage channel will need to be temporarily

dammed during outfall construction. The stream area adjacent to the outfall working area will be dammed (eg using pea gravel bags and geosynthetic textile during the installation of the outfall). Water arising upstream of the dammed area will be transferred downstream of the dammed area by pump during the course of the headwall construction works. This temporary arrangement will allow outfall construction works to be isolated from flowing water in the drainage channel. These works will occur over a period of one day.

Oil spill protection measures and emergency spill response procedures will be implemented during the construction of the proposed development.

7.6.12. The grounds of appeal challenges the use of pea gravel combined with geosynthetic textile in the proposed damming of the drain to facilitate headwall work, as not suitable to hold-back or re-direct water, and as intended for erosion control and stabilisation rather than containment.

7.6.13. I consider the use of pea gravel to provide bulk / mass in conjunction with geosynthetic textile in order to impound water in the watercourse, is acceptable. Geosynthetic textile which comes in various forms. I am satisfied with the commitment made by the applicant, that the construction works will be designed, and checked by a civil engineer, suitably qualified and experienced in excavation and site clearance and construction methodologies. A detailed method statement for the damming and outfall construction works will be developed by the construction contractor. The method statement for these works will be sent to the Eastern Office of Inland Fisheries Ireland (IFI) for their approval.

7.6.14. Mitigation of operational impacts, include:

To ensure the highest standards of environmental protection, the proposed development has been designed to operate in accordance with the following environmental protection standards:

European Commission (2018) BREF on Waste Treatment.

European Commission (2018) BATC on Waste Treatment.

EPA (2011) BAT Guidance Note on the Waste Sector.

Stormwater entering the drainage system will be directed to a pre-cast attenuation tank. A slam shut valve and hydrobrake (limiting flow to 9.0 l/s) will be situated prior to the point of site discharge. The slam shut valve will ensure site containment.

Oil spill protection measures and emergency spill response procedures will be implemented during the operational phase of the proposed development.

Most of the waste handling, storage and processing will take place indoors under cover. A relatively small quantity or wastes will be stored in external waste storage bays, however these will drain to an appropriate collection tank. This foul water to be dispatched off-site for proper and safe disposal at an appropriately authorised wastewater treatment facility.

7.6.15. Monitoring – proposed surface water quality monitoring is set out at section 10.5.3.5 of the EIAR. Table 10.11 lists monitoring parameters and the frequency of monitoring. It is stated that surface water quality monitoring will be implemented on an ongoing basis at the site during both Phase 1 and 2 facility operations in accordance with the requirements of the facility's WFP / IE licence to ensure the efficiency of the operational phase surface water management mitigation measures proposed, and to ensure that only uncontaminated surface water is discharged from the site to the drainage channel to the south of the site.

7.6.16. I note that monitoring will be a requirement of the facility's licence. However I consider that the acceptability of the proposed development is dependent on the commitment that only uncontaminated stormwater will be discharged from the site to the surface water body to the south. For this reason I consider it appropriate that the water quality monitoring regime should be a clear commitment of this planning application / appeal, enforceable, if necessary, under planning legislation.

7.6.17. The reporting arrangements for monitoring should include keeping records on the planning file. In the absence of sufficient clarity regarding monitoring of the surface water discharge and outfall, planning permission should not be granted.

7.7. Firewater

7.7.1. A dedicated fire quarantine area will be situated in the centre of the yard area. This will be kept available at all times for use if a hot load is imported, or if a hot-spot is identified in a stockpile, and turning or digging out to isolate are considered suitable measures.

7.7.2. Bunker blocks will be utilized at external waste storage bays to alter waste storage arrangements as necessary.

7.7.3. Water supply to the MRF building will be sourced from an existing groundwater well situated off-site.

7.7.4. Assessment of firewater is provided in a report titled Fire Water Risk Assessment Report, submitted with the application, which follows the guidance in the EPA document: 'Guidance on Retention Requirements for Firewater Run-off', including:

Fire Prevention principles:

Good housekeeping and prompt transfer of wastes to prevent the build-up of combustible materials,

Monitoring of waste for self-heating / self-combustion,

Stock rotation regimes,

Regular documented preventative maintenance of waste processing equipment and on-site vehicles.

Provisions to restrict the fire from spreading including:

Storage bays suitable for preventing fire spread, with strong and imperforate walls,

Maintaining appropriate freeboard to prevent waste material from overtopping walls,

Establishing maximum waste stockpile sizes and minimum fire break separation distances between waste stockpiles,

Operation of a dedicated fire quarantine area on-site.

Control sources of ignition - measures will be considered to minimise ignition sources at the proposed development including:

Adoption and implementation of a Fire Protection and Mitigation Plan to be prepared and submitted to the fire service when the site is operational.

A risk management programme outlining how to control any possible firewater produced from a fire, will be prepared and maintained on site.

7.7.5. Table 4-1 of the report gives the types and quantities of Waste stored on site - total 1,042 tonnes. With an annual intake of 50,000 tonnes this would correspond to acceptance, processing and removal off-site, of c1,000 tonnes per week, averaged over a 50 week period. Acceptance of 90,000 tonnes would (nearly) double the frequency of removal, in order not to require an increase in storage.

7.7.6. The site has been divided into zones based on EPA guidance, assuming a minimum of two-hour fire walls between buildings; compartmentalising within buildings; or a minimum of 15m separation distance between zones.

Zone 1 – administration building; the distance between this zone and the other zones is greater than 15m.

Zone 2 - MRF and workshop building. It is assumed that two-hour fire rated walls will be used in the construction of the waste storage bays in this building.

Zone 3 - MRF external waste storage areas. A diesel storage tank is located in this zone. It is assumed that two-hour fire rated walls will be used in the construction of the external waste storage bays.

Zone 4 – this zone represents the electrical sub-station to be situated on-site, the distance between this zone and the other zones is greater than 15m.

7.7.7. Based on the guidance, firewater retention is required for zones 2 and 3 only.

7.7.8. The firewater storage required, calculated using an EPA tool, is 1443m^3 for zone 2 and 778m^3 for zone 3.

7.7.9. In the assessment of the availability of firewater storage, it is noted that the site's entire area is covered with hard standing, excluding the administration building, 6,500m^2 in area, with ramped access to the site, of minimum height 200mm.

7.7.10. The stormwater tank is 480m^3 and the foul water tank is 78m^3, the capacity of the MRF building, workshop building and yard is 1,300m^3 (capacity could be increased by sloping the yard) giving a total of 1,858m^3, which is adequate for a fire event occurring at zone 2 (1443m^3) or zone 3 (778m^3). This is based on a 1:10 year (24 hr) rainfall event; total firewater provided by the local fire brigade 78m^3, firewater on site 76.5m^3; fire duration of 6 hours based on EPA guidance; waste storage in zone 2 - 878 tonnes/878m^3 and in zone 3 - 164 tonnes/164m^3; and no firewater contribution via hydrants (no connection to water mains).

7.7.11. All contaminated firewater collected on site will be subject to characterisation testing before being collected and brought to an appropriately designed authorised wastewater treatment plant / hazardous waste treatment facility for management / treatment.

7.7.12. The planner's report notes that the file was referred to the Fire Officer, but that no report was received.

7.7.13. The EPA guidance document states that all retention ponds/tanks, etc. shall be maintained empty, or at least to a point where the required retention capacity is available. It also states that where a firewater retention facility solution, outside of a dedicated firewater tank or pond, is proposed (e.g. WWTP tanks or storm water attenuation facilities), an explanation is required of how this would affect the continued operation of the site during and after the fire event. From the Firewater Risk Assessment Report, it is not clear to what extent the stormwater tank and the foul water tank are to have reserve capacity for firewater, and, in relation to firewater storage, it is not clear how continued operation of the site during and after the fire event could be affected. I note that it is stated that the firewater capacity could be increased by sloping the yard and I accept that such is the case.

7.7.14. I consider that issues in relation to firefighting and firewater remain to be fully resolved and I advise that in the absence of sufficient clarity on these issues planning permission should not be granted.

7.7.15. The risk of fire spreading to the bog is raised as a concern in the grounds of appeal. No evidence is presented in this regard. I am satisfied, in the context of this site, the adjoining development and land, that there is no risk of fire spreading from the site.

7.7.16. On-site waste water treatment - A site characterisation report was submitted and the proposed on-site waste water treatment for domestic waste is to include a soil polishing filter. The report includes that the requirement for a maintenance contract. No other foul wastewater will be discharged to ground. I am satisfied that the proposed development will not impact on groundwater.

7.7.17. Cumulative impacts, in-combination with other projects including the pig farm and Yellow River Wind Farm.

7.7.18. No significant cumulative or interacting impacts arise in relation to groundwater or surface water.

7.7.19. I consider that firefighting, firewater retention and its disposal and the shortfall in detailed surface water monitoring proposals are reasons for refusal.

7.8. Impact of Traffic on Roads in the Vicinity

7.8.1. Impact of traffic on roads in the vicinity is of concern to observers to the planning authority and is raised in the grounds of appeal and observation.

7.8.2. The site is 2.2km from the regional road. To the east, the site adjoins an existing entrance to a piggery. Close to the west of the site there is a construction entrance for the Yellow River Wind Farm. The site entrance will be set back to accommodate truck waiting. A temporary set down area will be provided adjacent to the site entrance outside the main body of the site. The set down area will be hard-standing and will drain to the site surface water drainage system. A designated truck parking area will be provided in the external yard area proposed, to allow for overnight truck parking at the facility.

7.8.3. The facility is forecast to receive 40,000t per annum domestic and commercial municipal solid waste (MSW). This waste is to be transported to the facility in refuse collection vehicles (RCVs) with a typical carrying capacity of 10-12t per vehicle. MSW is estimated as likely to give rise to a daily average traffic generation in the order of 12-14 no vehicle trips; once processed the waste is exported from the site by articulated vehicles with a typical payload of 20t per vehicle giving rise to 7 no. trips per day. The facility is forecast to receive 30,000t per annum construction and demolition and commercial and industrial, skip waste, generally from construction sites and from household and commercial properties. Skip sizes can range from 6yd skips to 40yd skips. The tonnage varies considerably depending on skip size and material type. Typical average payload is approx. 3.2-4.8t. C&D is estimated as likely to give rise to a daily average traffic generation in the order of 23-34 vehicle trips. The facility is forecast to receive 20,000t per annum of dry mixed recyclables (DMR). This waste is to be transported to the facility in compactor/skip with collection from civic amenity sites and both commercial and industrial sites, where payload varies between 5-10t. Approximately 8,000t is forecast to arrive from these sources giving rise to approx. 3-6 vehicle trips per day. It is estimated that approximately 8,000t from domestic and commercial sources will be transported by a mix of curtain sided vehicles and RCV (Refuse Collection Vehicle - wheelie bin collectors) with an average payload of 5-8t depending on the waste type. This is forecast to generate approximately 5-9 vehicle trips per day; once processed the waste is exported from

the site by articulated vehicles with a typical payload of 15t per vehicle, giving rise to 3 no trips per day. The highest forecast impact is on the western slip roads of M6 junction 3 where there is a forecast increase of 7-8% in total daily traffic flow and 50% increase in the volume of HGV, in the opening year. Construction of the facility will be programmed so that it does not occur concurrently with intensive construction activities from the proposed development of Yellow River Wind Farm.

7.8.4. A number of concerns are raised in the grounds of appeal in relation to the impact of traffic on the roads in the vicinity. These relate to the structure and condition of the road (R400), which has been closed on three occasions in the recent past, including for a prolonged period following a bridge collapse. Road closure requires rerouting of traffic. The appellants point out that the majority of the roads in East Offaly have a Pavement Surface Condition Index (PSCI) rating of 1- 4. A rating below 6 indicates localised or structural distress and surface defects. A map indicating the location and quality of roads is provided as figure 2 of the submission. They also point out that the R400 is a restricted route, as stated in the County Development Plan.

7.8.5. The applicants' response includes that the policy restriction on the R400 is not one of preventing any development. They note the special contribution, attached as condition 23 to the decision, which they assume to be in respect of road strengthening works. It is reasonable to expect that the contribution is toward the cost of scheduled strengthening works, by which any such works, the need for such works, the lifespan of the works and the benefit to the proposed development might be objectively assessed. The Road Section report considered the information provided with the application to be satisfactory.

7.8.6. The Guidelines on the Rehabilitation of Roads over Peat, published in 2000 by the Department of Environment and Local Government (referred to on this file as the Green Book), is the guiding standard. Offaly County Council was represented on the Working Party who drafted these guidelines and, as referred to in the grounds of appeal, there is a considerable amount of such roads in County Offaly, therefore the roads authority has considerable experience in dealing with bog rampart roads.

7.8.7. The Roads Design section and the Area Engineer have reported on this application, recommending planning permission, and the attachment of a condition requiring an

annual contribution for road maintenance, based on projected upgrade requirements. The condition has not been appealed by the applicant.

7.8.8. I am satisfied that the Regional Road has adequate capacity to cater for the traffic which would be generated by the proposed development, at construction and operational stages. Maintenance of the Regional Road to an acceptable condition, is a matter for management by the roads authority. They are satisfied that it can be maintained in accordance with the schedule of maintenance outlined in the Area Engineer's report. I consider that, subject to the attachment of a condition requiring a contribution on an ongoing basis for the duration of the proposed use, towards road maintenance, road capacity or condition should not be a reason to refuse the proposed development.

7.9. **Impact on Protected Species**

7.9.1. Impact on protected species is of concern to objectors and is raised in the grounds of appeal and observation.

7.9.2. This is mainly dealt with in chapter 8 of the EIAR. Other chapters referenced in chapter 8 are: 9 - Soils, Geology and Hydrogeology, 10 - Hydrogeology and Surface Water Quality, and the Construction Environmental Management Plan, CEMP, Appendix 4.3, Volume 3 of the EIAR.

7.9.3. The grounds of appeal states concern in relation to avian species.

Bats

7.9.4. The grounds of appeal expresses concern in relation to negative impact on bats and state that the community disputes that no sightings or evidence of bats was recorded; pointing out that five species were identified at Derryarkin in 2013. The EIAR states that no bats have been recorded within 2km.

7.9.5. Apart from the small area of trees at the south western corner of the site and the agricultural buildings on the site, there are no other upstanding features in the immediate vicinity. The location appears to be unsuitable for bats. I am satisfied with the findings in the EIAR that no negative impact on bats is likely to arise as a result of the proposed development.

Birds

7.9.6. The Habitat survey on the 17th June 2021, given in Appendix B to the 'Report to inform the Appropriate Assessment Process' (& 8.3.2 of the EIAR) notes birds observed nesting/feeding within the redline boundary for the proposed development (common species feeding over adjacent land and or using the hedgerow on the bank of the drainage ditch (giving a list) and house martin nests observed in the agricultural shed). Vantage point (VP) surveys were carried out between November 2020 and April 2021. During the winter VP surveys a total of 11 species were observed, none within the stie boundaries, including 4 BoCCI (birds of conservation interest in Ireland) red-listed: lapwing, kestrel, golden plover and curlew; four amber listed: whooper swan, teal, mute swan and black-headed gull; two green listed: little grebe and little egret; and 'not listed': great white egret (a recent arrival in Ireland).

Of these whooper swan, golden plover, little egret, and great white egret are annex 1 listed species.

7.9.7. Whooper Swan - The grounds of appeal expresses concern in relation to negative impact on whooper swan. They challenge the finding that no whooper swans were recorded on the site and refer to surveys in connection with the Yellow River windfarm (YRWF) which found evidence regarding the presence of whooper swans. They consider that the YRFW survey, unlike the subject survey, was carried out at the correct time of year. The EIAR states that a species specific survey was undertaken for whooper swans between November 2020 and April 2021. This is the correct time of year. It was carried out because the presence of significant numbers in the area had been identified in the studies for Yellow River Wind Farm and also because County Offaly is a favoured wintering location for the species. The survey found whooper swans present to the east and noted their movement to a feeding area to the south east. The areas and movement did not involve the subject site. There were no observations of whooper swans using the site to roost or feed.

7.9.8. The subject site is a brownfield site. I am satisfied with the findings in the EIAR that no negative impact on birds is likely to arise as a result of the proposed development.

Aquatic Species

7.9.9. In the grounds of appeal concern is expressed in relation to negative impact on aquatic species. The IFI in their submission to the PA stated that the Yellow River is

currently at ‘bad’ status (disimproved from ‘moderate’ in 2018) and should have been restored to at least ‘good’ by the end of 2015; and that this application may affect the potential restoration of better water quality.

7.9.10. The grounds of appeal refers to the need for a robust design and no leeway for doubt. In this regard they refer to the potential utility of the Yellow River as a spawning ground for lamprey such that it should be considered a sensitive receptor. They refer to White-clawed crayfish, regarding which they state that there have been sightings reported throughout the Mongagh / Yellow River. They also refer to Salmon stating that several sections of the Yellow River offer good salmon spawning and nursery habitats.

7.9.11. Protection of surface water from contamination during the construction stage and also during the operational stage is addressed in detail in the EIAR and has been dealt with under a separate heading earlier in this assessment.

7.9.12. In the absence of clarity regarding firewater, and surface water discharge monitoring I consider that the Board cannot conclude that the proposed development will not have an adverse impact on surface water and will not therefore impact on the aquatic species which are sensitive receptors, and this is a reason to refuse permission.

7.10. Impact on Amenities of Residents and Communities.

7.10.1. Impact on amenities of residents and communities is of concern to objectors and is raised in the grounds of appeal and observation. Issues raised in the course of the planning application, and appeal, in relation to negative impact on amenities of residents and communities, during construction and operation, include concerns about noise and vibration, traffic turning in towns, odour, rodents, negative impact on house prices and excessive level of industrialisation.

Noise and Vibration

7.10.2. Concern is expressed in relation to negative impact from noise.

7.10.3. Noise and vibration are referred to in chapter 12 of the EIAR.

7.10.4. For the construction stage, predicted noise at the nearest sensitive receptor is 55.6dB. This is within the 65 dB LAeq 1 hr noise limit set for construction activities.

(British Standard BS 5228-1: 2009+A1:2014 Code of Practice for Noise and Vibration Control on Construction and Open Sites – Noise), and the impact is said to be temporary slight adverse.

7.10.5. Predicted noise during the operational stage will be significantly below 55 dB LAeq day time limit, (Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4), published by the Environmental Protection Agency, Office of Environmental Enforcement (OEE)).

Details provided include:

During all periods a maximum of 154 vehicle movements have been assumed per day or 7 per hour.

Daytime all MSW and C&D /C&I plant operational. West facing doors to materials recovery facility (MRF) building closed during the daytime. Outdoor loaders operate for 80% of the time, outdoor excavator operating 100% of the time. Timber shredder assumed to operate 100% of the time.

Evening all doors to MRF building closed when C&D / C&I and MSW line equipment is operating. The timber shredding operates 6% of the time during the evening in shredding mode (rest of the time idling).

Night time assumes only waste acceptance operations. Includes vehicle idling on weighbridge and all unloading activities are being conducted internally in the waste process building with roller shutter doors closed.

7.10.6. Predicted noise during the operational stage at the nearest sensitive receptor will not exceed the 45 dB LAeq night time limit, or the 50 dB LAeq evening limit, taking account of the noise from Kilmurray's Quarry and soil recovery facility and Skeagh Farms (piggery).

7.10.7. Re. vibration - in response to the grounds of appeal, the applicant reiterates that most of the construction materials will be sourced from the adjoining quarry and this will reduce impacts on the local road. The extent of information available to the planning authority arising from compliance with conditions of planning permissions for various permitted developments, and the applicant's willingness to contribute to the maintenance of the public road are offered as mitigation.

7.10.8. In my opinion impact from noise and vibration should not be reasons to refuse or modify the proposed development.

Dust

7.10.9. Impact from dust is raised as a concern.

7.10.10. Dust is addressed in chapter 11 of the EIAR under the heading Air Quality.

7.10.11. The grounds of appeal states that HGV traffic have been shown to substantially contribute to overall emissions of particulate matter (PM) from diesel vehicles and non-exhaust emissions (eg from brakes, tyres, road surface). The increase in construction traffic has not been properly accounted for with regard to dust. This has already been observed from traffic associated with the YRWF site, the Kilmurray quarry and Roadstone site. Roadside verges are dusted. There will be significant, sustained increase in dust and PM generation along the R400. The wind direction for calmer conditions is referred to as enabling greater deposition of PM over shorter distances; which shows wind from the north, increasing the risk of particulates entering the stream to the south. Higher wind speeds will carry dust father away. Potentially up to 2km. The operational phase will increase dust from mechanical loading and unloading of tipping waste, from stockpiles and storage, from wind scouring of waste surfaces, from handling and processing of waste through operations including crushing screening and blending, from shredding of green waste such as timber and from processing of construction and demolition waste and the potential release of man-made fibres such as asbestos. They give a breakdown of the types of airborne particles to be expected in table 4 of the submission. The proposal lacks dust abatement and dust management proposals.

7.10.12. The applicants response includes:

7.10.13. Construction dust – The Institute of Air Quality Management, Guidance on the Assessment of Dust from Demolition and Construction (IAQM 2016), is recommended for use by TII, based on which they state that at 800m from the site boundary the Yellow River is outside the boundary of potential dust impact. There are no sensitive receptors with respect to construction dust.

7.10.14. Operational dust – an Operational Dust Management Plan will be developed to ensure that there are no impacts due to dust. All waste will be stored indoors or

within a closed bay outdoors, with waste processing and storage areas subject to washdown on a daily basis during operations. Regular cleaning of outdoor surfaces will occur, and no exterior stockpiles are proposed. On dry and / or windy days, or in the case of waste presenting on-site which is particularly light and dispersive, this waste will be lightly wetted to prevent dust generation, per 11.5.2.2 of the EIAR. Dust monitoring will be undertaken. Hazardous waste will not be accepted.

7.10.15. A dust deposition threshold of 350mg/m^2 per day over a 30 day period is to be used. PM_{10} and $PM_{2.5}$ 24hr as outlined in directive 2008/50/EC are used: PM_{10} 50µ/m^3 24 hour, 40µ/m^3 annual. $PM_{2.5}$ 25µ/m^3 annual.

7.10.16. Condition no. 18 of the PA's decision refers to dust deposition limits. Since the waste recovery facility will operate initially under a waste facility permit from Offaly County Council, and, subsequent to reaching the limit of intake of 50,000 tonnes of waste per annum, will operate under licence from the EPA, it would be inappropriate to impose any operational dust deposition limits

Odour

7.10.17. Odour impact is a concern of the grounds of appeal. The grounds of appeal states that the EPA carried out an inspection of a landfill site at Corranure in County Cavan, when formerly operated by the applicants, and found that odours from the facility could be detected over 3km away from the site.

7.10.18. Odour impact could occur from the site or from vehicles accessing the site.

7.10.19. Chapter 11 of the EIAR under the heading 'Air Quality and Climate', deals with odour.

Odour Dispersion – The USEPA AEROMOD model has been used to predict concentrations using the worst case climate scenario, which occurred in 2017; the maximum off-site concentrations thus calculated, at the worst case receptor, is less than 1% of the guideline value.

Table 11-1 in the EIAR lists indicative odour standards based on offensiveness of odour (EPA 2019), which acknowledges that odours associated with waste sites are among the most offensive odours, and therefore are subject to the lowest threshold used in the measurement of impact: 1.5 OUE/m^3, as a 98th%ile of hourly average, at the worst-case sensitive receptor.

Industrial sectors	Relative offensiveness of odour	Indicative criterion
Processes involving decaying animal or fish remains. Processes involving septic effluent or sludge. Waste sites including landfills, waste transfer stations and non-green waste composting facilities.	Most offensive	1.5 OUE/m^3 as a 98th%ile of hourly averages at the worst-case sensitive receptor
Intensive livestock rearing etc	Moderately offensive	3.0 OUE/m^3 as a 98th%ile of hourly averages at the worst-case sensitive receptor
Brewery / grain / oats production etc	Less offensive	6.0 OUE/m^3 as a 98th%ile of hourly averages at the worst-case sensitive receptor

7.10.20. The odour detection threshold is given as 1 OUE / m^3, and the recognition threshold is stated to be 2 to 10 times greater.

7.10.21. Table 11.9 gives predicted concentration for the operational phase, at worst case offsite receptor, and records values of 0.0144 (and similar), well below the 1.5 limit, and less than 1% of the guideline value.

7.10.22. Odour from passing lorries, is not specifically addressed in the application, however it should be noted that refuse collection takes place in all urban areas and in the normal course of operations no significant odour impact occurs from collection vehicles.

7.10.23. It is stated that the proposed development represents over-industrialisation, that this area has been targeted and has been the subject of many large projects. There is concern about negative impact on house prices and that the socio-economic impact on both Rochfortbridge and Rhode villages will be negative.

7.10.24. No evidence of negative impact on house prices or negative socio-economic impact on settlements, has been presented. The site is well removed from settlements and dwellings, and from roads in regular public use.

7.10.25. Impact on amenities of residents and communities should not be a reason to refuse or modify the proposed development.

7.11. **Impact on Visual Amenities, Historic Landscape and Cultural Heritage**

7.11.1. The impact on visual amenities, historic landscape and cultural heritage is of concern to objectors and is raised in the grounds of appeal and observation; particularly impact on views from Croghan Hill; and negative impact on public investment in development such as proposed walking trails.

7.11.2. Visual impact is assessed in the EIAR from 6 viewpoints including from Croghan Hill.

> The proposed development will be a minute inclusion adjacent to the existing built form of the piggery. The dark green tones of most of the proposed buildings will merge well with the dark, naturalistic tones of the surrounding terrain. The surrounding landscape of Croghan Hill is varied, and views are expansive enough from it that such scenic values will not be impacted by the proposed development. Overall, the proposal would be barely discernible within the available vista and will not detract from the visual amenity of the scene. The magnitude is assessed as of negligible significance and imperceptible.
>
> From the R466 southwest of Rochfortbridge the proposed development will not be visible due to the intervening hedgerow vegetation. The magnitude is assessed as of negligible significance and imperceptible.
>
> No significant impacts are noted from any of the other viewpoints.
>
> It is noted that the proposed development is located in a low sensitivity area.
>
> The replacement of a relatively large agri-industrial buildings and structures with a comparably scaled set of industrial buildings and structure will have no marked effect or change on the site or the receiving environment where there are extractive activities and large agro-industrial buildings on three sides set in a wide post-industrial context of vast cutaway bogs.

7.11.3. I accept that visual impact will be minimal.

7.11.4. Negative impact on public investment in development such as proposed walking trails impact on the development of the areas recreational potential is of concern to appellants: the proposed Lough na Shade Amenity Area and Croghan Greenway extension; rewetting and rewilding of Lough na Shade (feasible and in line with EU Nature Restoration Law etc); the Council's purchase of land at the top of Croghan

Hill, connecting to the existing greenway network and ultimately the East Offaly Wilderness corridor; utilising the just transition fund and an allocation for Tracks and Trails; and that the development is in direct contravention to the commitment of returning the damaged peatlands to their original state are all stated concerns.

7.11.5. In my opinion there is no reason to conclude that the proposed brownfield development, in proximity to an existing piggery and quarry, would have any impact on the areas recreational potential.

7.11.6. The possibility of archaeological impact is a stated concern. Archaeological material discovered in the area is referred to; that no archaeological excavations have been undertaken; and the appellants note that peatland and reclaimed peatland have been designated as an area of archaeological potential.

7.11.7. The applicant states that monitoring of groundworks will be carried out under licence to the Department of Housing, Local Government and Heritage and the National Museum of Ireland. Provision will be made for the full excavation and recording of any archaeological features or deposits that may be exposed during monitoring.

7.11.8. In my opinion the mitigation proposed is acceptable.

7.11.9. Impact on visual amenities, historic landscape and cultural heritage should not be a reason to refuse or modify the proposed development.

7.12. **Impact on Air quality**

7.12.1. The impact on air quality is of concern to objectors and is raised in the grounds of appeal and observation.

7.12.2. Asbestos containing materials (ACMs) were detected during the survey of the existing buildings. These materials will be removed by a competent asbestos contractor prior to demolition works.

7.12.3. Although the original list of wastes for acceptance at the facility included hazardous wastes, in relatively small volumes on an occasional basis, this has been revised, and no hazardous waste will be accepted at the facility. So that there can be no ambiguity in this regard the decision of the planning authority includes in condition, no 3, that ‘No hazardous waste shall be accepted or processed at the facility.’ A

similar condition should be attached, should the Board be minded to grant permission.

7.12.4. Impacts of concern are from diesel engines during the construction phase, and during the operational phase, in addition to diesel use, impacts from mechanical loading and unloading of tipping waste, from stockpiles and storage, from wind scouring of waste surfaces, from handling and processing of waste through operations including crushing screening and blending, from shredding of green waste such as timber, and from processing of construction and demolition waste and the potential release of man-made fibres such as asbestos. In table 4 of the submission, which I have tagged for the Board's information, the appellants give a breakdown of the types of airborne particles, as examples, to be expected. They are concerned that the proposal lacks dust abatement and dust management proposals.

7.12.5. Any increase in air-borne particulates from fuel and other sources associated with increased traffic, will be spread across the entire road network over which the operation extends, will not be concentrated in the vicinity of the site, and will not impact significantly on the locality.

7.12.6. Air quality is mainly dealt with in chapter 11 of the EIAR, and is also referred to in the Construction and Environmental Management Plan (CEMP) submitted with the application. Condition 18 of the planning authority's decision refers to a limit for total dust deposition at the site boundaries and dust abatement measures during construction stage.

7.12.7. Construction phase air quality mitigation is set out at paragraph 11.5.1 of the EIAR.

7.12.8. In my opinion the air quality mitigation, as proposed in the EIAR, is acceptable. I consider it appropriate, as in the PAs decision, to include a condition limiting total dust deposition at the site boundaries, to not exceed 350 mg/m^2/day averaged over a thirty day period, during construction. Since the waste recovery facility will operate initially under a waste facility permit from Offaly County Council, and, subsequent to reaching the limit of intake of 50,000 tonnes of waste per annum, will operate under licence from the EPA, it would be inappropriate to impose any operational dust deposition limits.

7.12.9. I am satisfied that impact on air quality should not be a reason to refuse or modify the proposed development.

7.13. **Climate Impact**

7.13.1. The impact on climate is raised in the grounds of appeal.

7.13.2. Climate is mainly dealt with in chapter 11 of the EIAR, it is also referred to in the Construction and Environmental Management Plan (CEMP) submitted with the application.

7.13.3. Climate embedded energy of construction is summarised in table 11-8 (total 1,437.22 tonnes CO_2e); impact – temporary, negative but not significant.

7.13.4. Traffic impact of operation is given in table 11-10 (do nothing 4,998 CO_2 tonnes/annum, do something 5,202 CO_2 tonnes/annum net impact 204 CO_2 tonnes for 2024), (do nothing 5,934, do something 6,042 = 208 CO_2 tonnes for 2039). The estimated impact in 2024 as a % of the national emission ceiling is 0.0005% and in 2039 is 0.0006%. The impact is considered negative, long - term, and imperceptible.

7.13.5. There is potential to offset the construction phase embedded carbon, within months of operations commencing.

7.13.6. Operational phase power equipment – carbon intensity is the amount of CO^2 that will be released per kilowatt hour (kWH) of energy of a given fuel. For electricity this will depend on the fuel mix used; as updated by SEAI annually.

7.13.7. The carbon intensity of electricity has dropped 64% since 1990 driven by an 84% reduction in the use of coal for electrical generation and an increase of 54% in renewables used. The carbon intensity of electricity, quoted by SEAI was 324 $kgCO_2e$ in 2019, based on 36.5% of the national grid electricity being generated by renewable sources; a provisional figure for 2020 is 295.1 $kgCO_2e$. The target for 2030 is for 70% of electricity demand by renewables. The installation of roof mounted solar panels will lead to an estimated output capacity of 104,000 kWh; 29% of power demand.

7.13.8. In addition to operational electricity there is an operational demand for 65,520 litres of diesel annually. The 2019 report on Diesel and alternative fuel Bus trials, 1MJ of diesel emits 73.3g/CO^2. Each MJ of diesel is equal to 0.0278litres. This results in emissions of 0.134 tonnes of CO^2 annually.

7.13.9. As mitigation for the operational phase (recycling or recovery of the waste) (11.5.2.4) diversion of waste is estimated, based on the TII carbon tool (TII, 2020) (recycling v. incineration v. landfilling)

The proposed development will result in the sorting and recovery of C&D and MDR. These wastes will be sent onwards for either recycling or recovery. MSW entering the facility will be pre-treated and sent for energy recovery through incineration which has a significantly lower carbon footprint than landfill (during phase 2 of the operations). TII carbon tool provides emissions for a number of waste types and destinations. The benefits of landfill avoidance is reflected in the substantially reduced emissions per tonne:

Mixed C&D waste embodied carbon:

recycled 1.00 $kgCO_2$ per tonne

incineration with energy recovery 2.00 $kgCO_2$ per tonne

landfill 285.00 $kgCO_2$ per tonne

at 30,000 tonnes the saving is up to 8,520 tonnes of CO^2 annually, if the waste is recycled or incinerated rather than landfilled.

Paper and cardboard waste embodied carbon:

recycled 21.35 $kgCO_2$ per tonne

incineration with energy recovery 21.35 $kgCO_2$ per tonne

landfill 1041.00 $kgCO_2$ per tonne

at 20,000 tonnes the saving is up to 16,550 tonnes of CO^2 annually, if the waste is recycled or incinerated rather than landfilled.

General Office waste embodied carbon:

recycled 21.35 $kgCO_2$ per tonne

incineration with energy recovery 21.35 $kgCO_2$ per tonne

landfill 99.76 $kgCO_2$ per tonne

at 20,000 tonnes the saving is up to 15,682 tonnes of CO^2 annually, if the waste is recycled or incinerated rather than landfilled.

The operational carbon will be offset by the waste diverted from landfill and sent for recycling/energy recovery.

7.13.10. The grounds of appeal states, in relation to carbon emissions, that CO_2 is the primary GHG. Ireland has committed to reducing its CO_2 emissions by 4.8% per annum between 2021 and 2025 under the first carbon budget. They disagree with the calculations presented by the applicants of the CO_2 emissions from the diesel used on site and present their own alternative figures using conversion rates published by the Sustainiable Energy Authority of Ireland (SEAI). They state that the carbon emissions arising from the use of diesel on site is a thousandfold higher than those presented by Oxigen (175.8237718t CO_2 rather than 0.134t CO_2).

7.13.11. The applicants response acknowledges what is termed a 'typo' and also notes that there are discrepancies between the 2019 Report on Diesel and Alternative Fuel Bus trials (used in the EIAR) and SEAI figures. They state that the CO_2 annual figures are 173 tonnes annually per EIAR source, and 175 tonnes per SEAI. This will reduce as additional biofuels are added to diesel and other improvements are made. A TII guidance document, published since the application was made, recommends an approach for determining significance (construction and operational phases) based on comparing the 'do something' and 'net project GHG emissions' ('do something' 'do minimum') to the relevant national carbon budget; which method of assessment, they have used. Compared to the net carbon budget for 2030 of 4MtCO_2e for the industry, the proposed CO_2 from diesel emissions are 0.0043% of the industry carbon budget. Table 6.7 is referred to, as are the factors:

- the extent to which the trajectory of GHG emissions from the project aligns with Ireland's GHG trajectory to net zero by 2050; and
- the level of mitigation taking place.

7.13.12. Diversion of waste from landfill by providing a facility to sort and recover C&D and MDR prior to onwards recycling or recovery, is in line with key policy for waste set out in the Climate Action Plan. The potential to offset 40,752 tonnes of carbon emissions annually is set out in section 11.5.2.4 of the EIAR. Mitigation of diesel usage includes: regular maintenance, upgrading to best available technology and 'no idling'.

7.13.13. I am satisfied that climate impact is offset by the benefits of landfill avoidance, such that climate impact should not be a reason to refuse or modify the proposed development.

7.14. Other Issues

7.14.1. Increased flood risk - it is of concern to appellants that this is an area at risk of flooding and that the proposed development will increase flood risk. The applicant has responded, stating that the site is not in a flood risk zone and that the development was designed to ensure it does not create any flood risk, providing for attenuation for a 100 year storm event plus 20% for climate change.

7.14.2. OPW flood risk maps show that the site is not within a flood risk area.

7.14.3. The applicants enforcement history, is of concern to appellants. There is reference to a landfill facility which was operated by the applicants where the licence was withdrawn for reasons related to odour impact. The proposed development is not a landfill.

7.14.4. The appellants have concern regarding the amount of conditions and doubt that they could ever be adhered to. They state that EPA oversight is minimal and that Offaly has one of the lowest rates of environmental oversight and prosecution in the country. They are concerned that the level of waste, nuisance control and aftercare will be impossible to police.

7.14.5. The reference to Offaly County Council's enforcement, oversight and prosecution record is not supported by evidence. A planning permission is a legal document, and can be used by third parties, if necessary, to vindicate their rights. The number of conditions is not exceptionally large.

7.14.6. Hours of operation is an issue raised by the first party. The operating hours proposed in the EIAR section 4.3.4.3.1 are referred to as being in line with operational timeframes for similar facilities in the region. They state that those operating hours, in particular the hours of waste acceptance, are needed by the applicants to facilitate their hours of waste collection as allowed under their Waste Collection Permit and the Board is requested to amend the condition. They state that the permit or licence are more suitable vehicles for prescribing waste management facility operational hours.

7.14.7. The adjacent uses are agriculture and quarrying, the nearest property, a piggery, is unlikely to be impacted by the operation of the facility. The nearest residential properties are located c755m, c760m, c770m and c890m away. In my opinion operating hours, if they need to be managed, can be regulated by the licence / permit.

8.0 **Recommendation**

8.1.1. In accordance with the foregoing I recommend that planning permission should be refused having regard to the absence of the following necessary information:

1 The status of the Yellow River, given in the EIAR as 'poor' and in the Inland Fisheries Ireland submission to the planning authority as 'bad', needs to be updated.

2 Lack of clarity regarding monitoring of the surface water discharge, and of the surface water drain to which it is proposed to discharge uncontaminated surface water; which needs to include as a minimum:

a) Drawings and descriptions of the three locations where the proposed monitoring will be carried out: on-site; at the receiving drainage ditch to the south of the site, upstream of the outfall point, and; at the receiving drainage ditch downstream of the outfall point.

b) Details of the parameters to be monitored and the frequency of monitoring; agreed with Offaly County Council and Inland Fisheries Ireland.

c) Details of the manner in which parties are notified of the results of monitoring, listing parties to be notified; to include updating the planning file with monitoring results; agreed with Offaly County Council and Inland Fisheries Ireland.

d) Details of proposals for extending the list of monitoring parameters as necessary.

3 A report, prepared by a Fire Safety Consultant, in relation to fire safety, firefighting and fire suppression, referring to the Guidance on Retention Requirements for Firewater Run-off, EPA 2019 and / or other suitable guidance; to include, as a minimum:

a) The fire suppression system(s) proposed, in this regard it is noted that a controlled burn is not an available option;

b) Proposals for the quantum and availability of water for firefighting, based on projected need;

c) Proposals for firewater retention and disposal, including how the required capacity is to be maintained in the retention tanks, and how continued operation of the site during and after the fire event, would be affected. Any proposal for using the hard standing for firewater retention should include all necessary details including its suitability, capacity and drainage.

Reasons:

1 On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European sites No. 004232 and 002299 in view of the sites' Conservation Objectives. In such circumstances the Board is precluded from granting permission.

This conclusion is based on the lack of certainty in relation to firefighting, use of water for firefighting and its containment/disposal, and the inadequacy of proposed monitoring of surface water discharges; such that reasonable doubt remains as to the actual effects of the proposed development on the conservation objectives and site integrity of the protected sites.

2 On the basis of the information provided with the application and appeal, and in light of the assessment carried out above, I am not satisfied that the proposed development would not adversely affect water quality in the receiving surface waters and the Yellow River, downstream, which currently has bad status and which needs to be restored to at least good status, and thereby be contrary to the proper planning and sustainable development of the area.

3 On the basis of the information provided with the application and appeal, and in light of the assessment carried out above, I am not satisfied that the proposed development would not adversely affect water quality in the receiving surface waters

and adversely affect aquatic species which are sensitive receptors and thereby 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.

Planning Inspector

17 July 2024

Appendices

Appendix 1 Photographs

Appendix 2 Appropriate Assessment

Appendix 3 Environmental Impact Assessment

Appendix 4 Proposed waste activities

Appendix 5 National Waste Management Plan for a Circular Economy 2024-2030, extracts

Appendix 6 Eastern-Midlands Region (EMR) Waste Management Plan 2015-2021, extracts

Appendix 7 Climate Action Plan, 2024, extracts.

Appendix 8 Offaly County Development Plan 2021-2027, extracts

An Bord Pleanála

Appendix 2 to Inspector's Report

ABP-318566-23

Appropriate Assessment

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Inspector Dolores McCague

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1.0 Appropriate Assessment

1.1. Introduction

1.1.1. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site, there is a requirement on the Board, as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision.

1.2. Screening for AA

1.2.1. An Appropriate Assessment Screening Report and a Natura Impact Statement accompanied the application.

Description of the project

The site is located at Derryarkin, Rhode, Co. Offaly, 3km south of the M6 motorway. 5.5km north west of Rhode, 4km south of Rochfortbridge and 2.2km west of the R400.

The proposed development comprises:

the demolition of existing agricultural sheds and structures on-site and the construction and operation of a materials recovery facility for the acceptance and processing of up to 90,000 tonnes per annum of household, commercial and industrial and construction and demolition waste.

including the following:

(1) the demolition of all existing agricultural sheds and structures on-site (which cover an area of 1,417 m^2);

(2) the construction and operation of a materials recovery facility comprising: (a) a site entrance, (b) a weighbridge, (c) trucking set down and parking areas, (d) staff parking, comprising 24 parking spaces including disabled parking and EV charging, (e) a concrete yard area, (f) a fuel storage area, (g) external waste storage bays, (h) skip/bin storage areas, (i) a perimeter boundary wall (4 m in height) and perimeter fencing (2.1 m in height), (j) a stormwater drainage and attenuation system, (k) a two-

storey administration building (with an overall floor area of c. 396m^2 and c. 7.35m in height), (l) a single storey materials recovery facility (with an overall floor area of c. 2,850m^2 to a maximum height of c. 13m), (m) a truck loading bay, (n) an on-site wastewater treatment system, associated percolation area and ancillary services, (o) an on-site ESB sub-station and adjoining electrical room (with a combined floor area of 61 m^2 and 2.175 m in height), (p) solar panels (covering a total area of 737 m^2) mounted on top of the proposed administration and materials recovery facility buildings. The application is accompanied by an Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS). The proposed development will accept up to 50,000 tonnes of waste per annum and operate under a waste facility permit from Offaly County Council during phase 1 of operations. The proposed development will accept up to 90,000 tonnes of waste per annum and operate under an Industrial Emissions Licence from the Environmental Protection Agency during phase 2 of operations. The facility will be used for:

Acceptance, bulk loading and onward transfer of DMR

Acceptance, shredding and onward transfer of timber waste

Acceptance, processing and onward transfer of C&D / C&I skip wastes

Acceptance, processing pre-treatment and onward transfer of MSW.

Potential impact mechanisms from the project are indirect impacts that could occur during construction and operation:

- Size and scale / land take / physical changes to the environment

  Permanent loss of all habitats from the proposed development site

  Displacement of birds

  Displacement of mammals (otters) due to on-site activities coupled with potential temporary loss of suitable feeding and/or refugia habitat associated with the site clearance

  Potential for indirect impacts to water quality and effects to aquatic species.

- Emissions to air - local impact only
- Emissions to water

Sediment, nutrients, cement-based products and hydrocarbons have the potential to degrade the quality of a watercourse and as such reduce the carrying capacity for aquatic species / habitats

- Emissions (waste)

  The release of generated waste to an aquatic environment has the potential to degrade the quality of a watercourse and reduce the carrying capacity for aquatic species/habitats

- Duration of project

  Seasonal displacement of otter

  Indirect impacts to Otter prey

  Indirect impacts to Kingfisher prey

- Cumulative

- Surface water pollution from construction works resulting in changes to environmental conditions such as water quality / habitat degradation

- Surface water pollution from operation resulting in changes to environmental conditions such as water quality / habitat degradation

Step 3: European Sites at risk

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

Effect mechanism	Impact pathway/Zone of influence	European Sites	Qualifying interest features at risk	Further consideration Y/N
Deterioration in surface water quality	**Upstream**	Raheenmore Bog SAC Site code 000582, at the nearest point 5.5km south west of the subject site.	Active raised bogs Degraded raised bogs still capable of natural regeneration Depressions on peat substrates of the Rhynchosporion	N

None	No hydrological connectivity	Split Hills and Long Hill Esker SAC Site code 001831 10 km away	Semi-natural dry grasslands and scrubland facies on calcareous substrates (* important orchid sites)	N
None	No hydrological connectivity	Lough Ennell SAC Site code 000685 10.6 km away	Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. Alkaline fens	N
No defined feeding ranges or disturbance distances for the SCI species Pochard, Tufted Duck and Coot. Further consideration required.	No hydrological connectivity	Lough Ennell SPA Site code 004044 11.1 km away	Pochard Tufted Duck Coot Wetland and Waterbirds	Y
Deterioration in surface water quality.	Surface water, downstream	River Boyne and River Blackwater SPA Site code 004232, 15km away straight line distance and nearly 18.6km downstream of the subject site.	Kingfisher	Y
Deterioration in surface water quality.	Surface water, downstream	River Boyne and River Blackwater SAC Site code 002299 15km away straight line distance and nearly 18.6km	River Lamprey Atlantic Salmon Otter	Y

		downstream of the subject site.		
Outside the feeding range for Whooper Swan. No defined feeding range or disturbance distances for the other species but outside maximum range defined by SNH[2]	No hydrological connectivity	Lough Derravarragh SPA Site code 004043 25.6km	Whooper Swan Pochard Tufted Duck Coot Wetland and Waterbirds	N
Outside the core feeding range for Whooper Swan, Wigeon, Teal, Shoveler, Golden Plover and Greenland White-fronted Goose. There is no defined core feeding range for Coot, but outside maximum range per SNH	No hydrological connectivity	Lough Iron SPA Site code 004046 25.8km	Whooper Swan Wigeon Teal Shoveler Coot Golden Plover Greenland White-fronted Goose Wetland and Waterbirds	N
Outside the core feeding range for Whooper Swan,	No hydrological connectivity	Glen Lough SPA Site code 004045 35.1 km	Whooper Swan	N
Outside the core feeding range for Whooper Swan, Wigeon and Golden Plover There is no defined core feeding range for Corncrake, Lapwing, Black-tailed Godwit and Black-headed Gull but outside maximum range per SNH	No hydrological connectivity	Middle Shannon Callows SPA Site code 004096 41.5 km	Whooper Swan Wigeon Corncrake Golden Plover Lapwing Black-tailed Godwit Black-headed Gull	N

[2] Scottish Natural Heritage

			Wetland and Waterbirds	
Outside the core feeding range for Whooper Swan, Wigeon, Teal, Mallard, Shoveler and Golden Plover. There is no defined core feeding range for Tufted Duck, Common Scoter, Goldeneye, Coot, Lapwing and Common Tern but outside maximum range per SNH.	No hydrological connectivity	Lough Ree SPA Site code 004064 41.3 km	Little Grebe Whooper Swan Wigeon Teal Mallard Shoveler Tufted Duck Common Scoter Goldeneye Coot Golden Plover Lapwing Common Tern Wetland and Waterbirds	N
None	Hydrological connectivity but considering distance, the estuarine nature of the habitat and nature of the proposed development, no impact conceivable	Boyne Coast and Estuary SAC Site code 001957 >75km	Estuaries Mudflats and sandflats not covered by seawater at low tide Annual vegetation of drift lines Salicornia and other annuals colonising mud and sand Atlantic salt meadows Embryonic shifting dunes Shifting dunes along the shoreline with	N

			Ammophila arenaria (white dunes) Fixed coastal dunes with herbaceous vegetation (grey dunes)	
There is no defined core feeding range for any of the SCI species but outside maximum range per SNH.	Hydrological connectivity but considering distance, the estuarine nature of the habitat and nature of the proposed development no impact to habitat, no conceivable	Boyne Estuary SPA Site code 004080 >75km (c100km instream)	Shelduck Oystercatcher Golden Plover Grey Plover Lapwing Knot Sanderling Black-tailed Godwit Redshank Turnstone Little Tern Wetland and Waterbirds	N

Whooper Swan and Golden Plover have been recorded roosting and/or feeding within 500m and 600m respectively of the proposed site during winter months (Oct-March). As the designated sites for these species are beyond the core feeding ranges (as defined by SNH: 5km and 3-11km respectively), those recorded are not considered part of a population for which a site has been designated.

Noise emissions are predicted for noise sensitive locations, which are residential properties c700m from the site entrance. Construction noise levels for site preparation, clearance and demolition of 54.7 dB $L_{Aeq, 1hr}$ and for all construction works occurring simultaneously 55.6 dB $L_{Aeq, 1hr}$ are predicted, and operational noise levels of up to 55 dB $L_{Aeq,}$ daytime, 55 dB $L_{Aeq,}$ evening and 45 dB $L_{Aeq, 1hr}$ night, are

predicted. Bird populations have been recorded c500-600m from the site. Otter spraint has been recorded c1.1km away.

Disturbance from noise varies between species and the nature of the noise, sensitivity of the species, season, weather.

Disturbance from noise has the potential to result in displacement during construction and the operational phase.

Similarly additional transportation requirements has the potential to result in displacement.

Potential impacts

Size and scale / land-take / Physical changes to the environment arising from construction (Permanent removal of existing habitats. Increase in human activity)

Resource requirements (eg construction materials)

Emissions to air (construction, operation and decommissioning)

Noise (construction, operation and decommissioning)

Emissions to water (construction, operation and decommissioning)

Waste emissions (construction, operation and decommissioning)

Transportation (construction, operation and decommissioning)

Duration of Project (construction and decommissioning)

Cumulative

Source	Pathway	Receptor	Likely significant Effects
Lough Ennell SPA			
Permanent removal of habitat; increase in human activity.	No pathway: no nesting or roosting of these species (Pochard, Tufted Duck or Coot) was observed within 1km of the site.	No Receptor	No Likely significant Effects
River Boyne and River Blackwater SPA/SAC			
Size and scale / land-take / Physical changes to the environment arising from construction.	Hydrological - drainage ditch to Yellow River to River Boyne and River Blackwater	Aquatic species and habitats	Likely significant effects

(Permanent removal of existing habitats. Increase in human activity)	Avoidance by otter which have been recorded within 2km	and otter	
Resource requirements (eg construction materials)	none	none	none
Emissions to air (construction operation and decommissioning)	no sensitive receptors within range	none	none
Noise (construction operation and decommissioning)	No otter feeding or refuges upstream of downstream within 150m. Otter or Kingfisher within 4km are assumed not to be part of SAC QIs	none	none
Emissions to water (construction operation and decommissioning)	Discharge to stream / drainage ditch to Yellow River to River Boyne and River Blackwater	Aquatic species habitats and dependent SCI	Likely significant effects
Waste emissions (construction operation and decommissioning)	Discharge to stream / drainage ditch to Yellow River to River Boyne and River Blackwater	Aquatic species and habitats	Likely significant effects
Transportation (construction operation and decommissioning)	No otter feeding or refuges upstream of downstream within 150m. Otter or Kingfisher within 4km are assumed not to be part of SAC QIs	none	none
Duration of Project (construction and decommissioning): Increase in runoff	Discharge to stream / drainage ditch to Yellow River to River Boyne and River Blackwater	Aquatic species habitats and dependent SCI	Likely significant effects
Cumulative Construction in parallel with other construction (YRWF)	Discharge to stream / drainage ditch to Yellow River to River Boyne and River Blackwater	Aquatic species habitats and dependent SCI	Likely significant effects

Results of desk and field surveys are given in the NIS. Including:

EPA monitoring results for 3 stations:

600m upstream of the confluence of drainage ditch with Yellow River, last surveyed in 2003, moderate status; at confluence of drainage ditch with Yellow River, last surveyed in 2020, moderate status; 4km downstream of confluence of drainage ditch with Yellow River, last surveyed in 2020, good status.

Mammals – otter – closest records 1.1km, 1.6km and 1.9km southwest. Although the riparian habitat along the drainage ditch is suitable for otter, no evidence or sightings were recorded.

Avifauna – records for 2022 for 10km square: 38 species including 6 annex 1, no kingfisher, but golden plover and whooper swan were recorded. Winter survey - 11 species were observed: 4 BoCCI red-listed, 4 amber, 2 green; 4 are also annex 1. When present at the roosting site, whooper swans would fly to the identified feeding field; both locations are to the east of the site. None observed within the site and no other species observed within the site.

Of the listed QI habitats and species of River Boyne and River Blackwater SPA/SAC, River Lamprey, Atlantic Salmon, Otter and Kingfisher could potentially be within the zone of influence of the proposed development. All are dependent on good water quality either for themselves or their prey species. Otter and Kingfisher within 4km of the site are assumed not to be part of SAC QIs.

Emissions reaching the Yellow River have the potential for adverse effect on salmon, river lamprey and Kingfisher QIs of the SAC / SPA.

Mitigation:

Construction Phase:

mitigation by avoidance,

construction designed and checked by geotechnical and civil engineers, suitably qualified and experienced in excavation and earthworks design and construction methodologies,

any excavation and construction related works will be subject to a design risk assessment at detailed design stage to evaluate risk levels for the construction, operation and maintenance of the works. Identified impacts will be minimised by the application of principles of avoidance, prevention and protection. Information on residual impacts will be recorded and relayed to appropriate parties,

a method statement for each element of the works will be prepared by the contractor prior to any element of the work being carried out,

given that the works comprise a significant proportion of excavation and earthworks, suitably qualified and experienced geotechnical personnel will be required on site to supervise the works,

the contract will require programming of the works such that earthworks are not scheduled during severe weather conditions. Where such weather is forecast, suitable measures will be taken to secure the works. The Project Manager is the person responsible for determining when works are to be stopped due to weather.

Operational Phase:

measures to be implemented to prevent the occurrence of water pollution and ensure the protection of the receiving surface water.

the proposed development has been designed to operate in accordance with the following environmental protection standards:

European Commission (2018) BREF on Waste Treatment,

European Commission (2018) BATC on Waste Treatment,

EPA (2011) BAT Guidance Note on the Waste Sector,

stormwater entering the drainage system will be directed to a pre-cast attenuation tank. A slam shut valve and hydrobrake (limiting flow to 9.0 l/s) will be situated prior to the point of site discharge. The slam shut valve will ensure containment in the event of any spill or hazardous material or environmental emergency,

Mitigation measures, 29 no., are set out in table 5-4 of the NIS. Many are best practice measures for construction, operation and decommissioning.

Monitoring of dust deposition, noise and surface water discharge will be carried out.

SAC

Specific conservation objectives have been developed for River Boyne and River Blackwater SAC, which include:

To restore the favourable conservation condition of River Lamprey in River Boyne and River Blackwater SAC, which is defined by the following list of attributes and targets, which list includes:

No decline in extent and distribution of spawning and nursery beds

To restore the favourable conservation condition of Atlantic Salmon in River Boyne and River Blackwater SAC, which is defined by the following list of attributes and targets, which list includes:

No decline in number and distribution of spawning redds due to anthropogenic causes.

Water quality – at least Q4 at all sites sampled by EPA.

To maintain the favourable conservation condition of Otter in River Boyne and River Blackwater SAC, which is defined by the following list of attributes and targets, which list includes:

Fish biomass available, no significant decline.

It is possible that the conservation objectives of the SAC, which are dependent on maintenance of water quantity and quality could be undermined by unmitigated impacts from construction and operation on surface water, arising from the effects of the project 'alone'.

SPA

Conservation objectives:

To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA: Kingfisher.

It is possible that the conservation objectives of the SPA which are dependent on maintenance of water quantity and quality could be undermined by unmitigated impacts from construction and operation on surface water, arising from the effects of the project alone.

I conclude that the proposed development would have a likely significant effect 'alone' on River Lamprey, Atlantic Salmon and Otter of River Boyne and River Blackwater SAC, and on Special Conservation Interests of River Boyne and River Blackwater SPA, from effects associated with contaminated runoff during construction and operation. An appropriate assessment is required on the basis of the effects of the project 'alone'. Further assessment, in-combination with other plans and projects, is not required at this time.

Overall Conclusion- Screening Determination

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information

I conclude that the proposed development is likely to have a significant effect on the qualifying features: River Lamprey, Atlantic Salmon and Otter of River Boyne and River Blackwater SAC; and on the Special Conservation Interests: Kingfisher of River Boyne and River Blackwater SPA; 'alone' in respect of effects on surface water arising from the project.

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

1.3. **Appropriate Assessment (Stage 2).**

1.3.1. Further to the foregoing assessment:

The applicants NIS includes conclusions that the proposed development is not likely to have a significant effect on the European sites:

River Boyne and River Blackwater SAC and SPA,

and that the proposed development will not adversely affect the integrity of any European site.

These conclusions are based on the mitigation measures set out in table 5-4 of the NIS.

1.3.2. Potential impact mechanisms from the project are indirect impacts on River Boyne and River Blackwater SAC and SPA that could occur during construction and operation:

- Surface water pollution from construction works resulting in changes to environmental conditions such as water quality.
- Surface water pollution from operation resulting in changes to environmental conditions such as water quality / habitat degradation.
- Alterations in surface water volumes / rates of discharge.

1.3.3. These impacts could occur in combination with other developments in the area.

1.4. Mitigation Measures

Construction Phase

1.4.1. A suite of mitigation measures will be put in place to ensure that no contaminated waters containing silt, fuel, cementitious materials etc have the potential to enter the receiving drainage ditches, and thereafter the Yellow River. These measures are listed in the NIS table 5-4 (1-19). Taken together these measures will ensure that there will be no adverse effects on water quality, or the conservation objectives of the European sites River Boyne and River Blackwater SAC and SPA arising from the construction of the proposed development.

Operational Phase

1.4.2. A suite of mitigation measures will be put in place to ensure that no contaminated waters have the potential to enter the receiving drainage ditches, and thereafter Yellow River. These measures are listed in the NIS table 5-4 (21-29) (and decommissioning phase (29a). It is stated that taken together these measures will ensure that there will be no adverse effects on water quality, or the conservation objectives of the European sites River Boyne and River Blackwater SAC and River Boyne and River Blackwater SPA arising from the construction of the proposed development.

1.4.3. A Firewater Risk Assessment Report was submitted. Issues remain regarding the use of firewater which could potentially impact on water quality.

1.4.4. Monitoring (5.5.3.1) – surface water discharge monitoring will be carried out on-site to ensure that the surface water discharges from the site are not polluting in nature. Water monitoring will also be undertaken at the receiving drainage ditch to the south of the site upstream and downstream of the site surface water discharge outfall.

1.4.5. Issues remain regarding monitoring which could potentially impact on water quality.

1.4.6. The potential for significant adverse impact on the European sites remains of concern.

1.4.7. On the basis of the information available, the Board cannot be satisfied that firefighting, firewater use and the retention and disposal of firewater would not impact adversely on the nearby watercourse and on the conservation objectives of the

European sites: River Boyne and River Blackwater SAC and River Boyne and River Blackwater SPA, downstream.

1.4.8. On the basis of the information available the Board cannot be satisfied that surface water monitoring proposals would be adequate to ensure that the proposed development would not impact adversely on the nearby watercourse and on the conservation objectives of the European sites: River Boyne and River Blackwater SAC and River Boyne and River Blackwater SPA, downstream.

1.5. Appropriate Assessment Conclusion

1.5.1. On the basis of the information provided with the application and appeal, including the Natura Impact Statement, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European sites No. 004232 and 002299 in view of the sites' Conservation Objectives. In such circumstances the Board is precluded from granting permission.

This conclusion is based on the lack of certainty in relation to firefighting, use of water for firefighting and its containment/disposal and the inadequacy of proposed monitoring of surface water discharges; such that reasonable doubt remains as to the actual effects of the proposed development on the conservation objectives and site integrity of the protected sites.

Planning Inspector

17th July 2024

Appendix 3 to Inspector's Report

ABP-318566-23

Environmental Impact Assessment

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Inspector Dolores McCague

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1.0 Environmental Impact Assessment

1.1. Introduction

1.1.1. The information provided in support of the application includes an EIAR in 3 volumes: volume 1 non-technical summary, volume 2 main report and volume 3 – appendices.

1.1.2. Other documents submitted with the application include:

Application form

Firewater Risk Assessment Report, and

Drawings

1.1.3. Documents submitted with a further information response include:

Response letter

App 1 – Surface Water Design Calculation Report

App 2 - Updated list of wastes to be accepted on-site during phase 2 of operations

App 3 – Site Drainage Design Report

App 4 – Wastewater Treatment System

App 5 - Tankered Waste Agreement with Uisce Éireann

App 9 – Samples & Specifications, and

Drawings

1.2. Description of development

1.2.1. A description of the proposed development is contained in chapter 1 of the EIAR. In summary the development applied for is the demolition of existing agricultural sheds and structures on-site and the construction and operation of a materials recovery facility for the acceptance and processing of up to 90,000 tonnes per annum of: household, commercial and industrial, and construction and demolition waste.

1.2.2. Elements of the proposed development include the following:

(1) the demolition of all existing agricultural sheds and structures on-site (which cover an area of 1,417 m^2);

(2) the construction and operation of a materials recovery facility comprising:

(a) a site entrance,

(b) a weighbridge,

(c) trucking set down and parking areas,

(d) staff parking, comprising 24 parking spaces including disabled parking and EV charging,

(e) a concrete yard area,

(f) a fuel storage area,

(g) external waste storage bays,

(h) skip/bin storage areas,

(i) a perimeter boundary wall (4 m in height) and perimeter fencing (2.1 m in height),

(j) a stormwater drainage and attenuation system,

(k) a two-storey administration building (with an overall floor area of c. 396m^2 and c. 7.35m in height),

(l) a single storey materials recovery facility (with an overall floor area of c. 2,850m^2 to a maximum height of c. 13m),

(m) a truck loading bay,

(n) an on-site wastewater treatment system, associated percolation area and ancillary services,

(o) an on-site ESB sub-station and adjoining electrical room (with a combined floor area of 61 m^2 and 2.175 m in height),

(p) solar panels (covering a total area of 737 m^2) mounted on top of the proposed administration and materials recovery facility buildings.

1.3. Environmental Impact Assessment

1.3.1. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the appeal / application. In my opinion the information contained in the EIAR and supplementary information provided by the developer, has been prepared by competent experts and

adequately identifies and describes the direct and indirect effects of the proposed development on the environment, and complies with the relevant legislative provisions.

1.3.2. With the exceptions noted later in this report, I consider that the information available to the Board, which includes: information submitted with the application, information in written submissions, and various other sources of information, such as the NPWS web site, is largely adequate for the carrying out of Environmental Impact Assessment in this case.

1.3.3. Having regard to the nature of the proposed development and the receiving environment, the likelihood of a major accident or disaster impacting the proposed development or arising as a result of the proposed development can be discounted.

1.3.4. This will not be an ‘establishment’ ie. COMAH (Control of Major Accident Hazards) site and there is no such site located in the vicinity of the site. Although not stated in the EIAR, it can be inferred from the description of the site and the description of the proposed development, contained in the EIAR, that the applicants understand this to be the case.

1.3.5. Alternatives considered are stated (chapter 3) as: do nothing, alternative locations in the midlands considered, as detailed in table 3.1, and alternative designs and processes; with a concluding assessment. In the grounds of appeal the adequacy of the EIAr in relation to the assessment of alternatives, is challenged. It is stated that economic issues only were the basis for discounting alternative sites. This issue is considered in the Inspector’s report under the heading ‘Need and Location’. It is a requirement for EIAr that there should be a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment. The EIAr considers 7 alternative sites, but the assessment of 5 of these sites only has taken into account the effects of the project on the environment. In response to the appeals it is the applicant’s submission that the selection process has been ongoing since 2011. Notwithstanding the foregoing, I consider that the EIAr includes a reasonable consideration of alternatives.

1.3.6. The baseline environment is described under each section of the EIAR.

1.3.7. The EIAR is laid out under the following chapter headings:

1 – Introduction

2 - Need for the Proposed Development

3 – Alternatives

4 - Existing and Proposed Environment

5 - Planning and Policy Context

6 - Scoping and Consultation.

7 - Population and Human Health

8 - Biodiversity

9 - Soils, Geology and Hydrogeology

10 - Hydrogeology and Surface Water Quality

11 - Air Quality and Climate

12 - Noise and Vibration

13 - Traffic and Transportation

14 - Archaeology, Architecture and Cultural Heritage

15 - Landscape & Visual Impact Assessment

16 – Interrelationships and Interactions

17 – Schedule of Environmental Commitments

1.3.8. I consider the direct and indirect significant effects of the development against the factors set out under Article 3(1) of the EIA Directive 2014/52/EU, which include:

a) population and human health;
b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
c) land, soil, water, air and climate;
d) material assets, cultural heritage and the landscape;
e) the interaction between the factors referred to in points (a) to (d).

1.4. Direct and indirect significant effects of the development:

1.4.1. Population and Human Health

Population and Human Health

EIAR	This is mainly dealt with in chapter 7 of the EIAR, Population and Human Health. Other chapters referenced in chapter 7 are: 9 - Soils, Geology and Hydrogeology, 10 - Hydrogeology and Surface Water Quality, 11 - Air Quality and Climate, 12 - Noise and Vibration, 13 - Traffic and Transportation and 15 - Landscape & Visual Impact Assessment.
Submissions	Issues raised in the course of the planning application, in the decision made by the PA, and in the grounds of appeal, in relation to human health include: Traffic: the condition of the road (R400) and the rerouting of traffic in the event of its closure; The risk of fire, and other health issues associated with refuse storage; The reduction in local amenities and the impact on communities in settlements; The risk to the aquifer and public water supply; Odour impact from the site on local residents, and from the transportation of waste on settlements; Impact on residential amenity; and Reduction in property values. These issues are addressed under separate heading in the Inspector's report.
Potential Impacts	Assessment and Mitigation Measures: • The main impact on population and human health is from traffic on bog rampart roads, from HGV traffic associated with the construction phase and HGV traffic associated with the operational phase. This occurs in the context of other projects generating HGV traffic. This will be mitigated by regular road maintenance.

	• There are positive impacts on population from the provision of a waste management facility which includes materials recovery. • There are positive impacts on the economy and employment in the area from the provision of the service.

1.4.2. Biodiversity

Biodiversity with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC	
EIAR	This is mainly dealt with in chapter 8 of the EIAR. Other chapters referenced in chapter 8 are: 9 - Soils, Geology and Hydrogeology, 10 - Hydrogeology and Surface Water Quality, and the Construction Environmental Management Plan, CEMP, Appendix 4.3, Volume 3 of the EIAR.
Submissions	Issues have been raised by observers to the planning authority and in the grounds of appeal in relation to negative impact on protected sites and species. This is addressed under separate heading in the Inspector's report and in the appropriate assessment.
Potential Impacts	Assessment and Mitigation Measures: There is potential for significant negative impact on surface water and downstream aquatic ecology during the construction and operational phases. This is to be mitigated during the construction phase by measures set out in the CEMP. During the operational phase this is to be mitigated by the design of the proposed development, which includes containment of firewater, and by the regulation of the operation of the facility by a waste facility permit from Offaly County Council during phase 1, and an Industrial Emissions

	Licence from the Environmental Protection Agency during phase 2. The proposals is considered to be inadequate in relation to the following matters. Monitoring will be a requirement of the facility's licence. However the acceptability of the proposed development is dependent on the commitment that only uncontaminated stormwater will be discharged and that the receiving surface waters and discharge are adequately monitored, as a clear commitment of this planning application / appeal, enforceable, if necessary, under planning legislation. In the absence of adequate water quality monitoring, permission should not be granted. This issue is addressed under separate heading in the Inspector's report. It is proposed to use water for firefighting and the application includes a Firewater Risk Assessment Report. The information is not considered adequate to enable a conclusion to be reached that the management of firewater has been adequately considered and would not pose a threat to the receiving waters and sensitive downstream rivers. In the absence of adequate provision for firewater and its management, permission should not be granted. This issue is addressed under separate heading in the Inspector's report.

1.11.3. Land, Soil, Water, Air and Climate

Land, Soil and Water	
EIAR	These issues are mainly dealt with in the EIAR in chapter 9 Soils, Geology and Hydrogeology and chapter 10 Hydrogeology and Surface Water Quality.
Submissions	Issues have been raised by observers to the planning authority and in the grounds of appeal in relation to negative

	impact on surface water and groundwater. This is addressed under separate heading in the Inspector's report.
Potential Impacts	Assessment and Mitigation Measures • Potential contamination of water during construction: to be mitigated by measures set out in chapters 9 and 10 and the CEMP to control sediment loss, spills and leakage of fuels and oils and discharge from concrete/cement. • Potential contamination of water during operation. The information available in this regard, as noted under the previous heading (biodiversity), is not adequate to ensure that the proposed development would not pose a threat to the receiving waters and sensitive downstream rivers. In the absence of adequate information in relation to firewater and its management, and the monitoring of surface water discharge the outfall stream / drain permission should not be granted. These issues are addressed under separate heading in the Inspector's report.

Air and Climate	
EIAR	These issues are mainly dealt with in the EIAR in chapter 1 Introduction, chapter 11 Air Quality and Climate, and chapter 12 Noise and Vibration.
Submissions	Issues have been raised by observers to the planning authority and in the grounds of appeal in relation to negative impact on residential properties and settlements from dust and odour; noise impacts on residential properties during construction and operation, and vibration impacts from traffic during construction and operation, on roadside dwellings. These are addressed under separate heading in the Inspector's report.

Potential Impacts	Assessment and Mitigation Measures: • Predicted impact from noise will remain within guideline limits[3] for the construction phase of the project, during daytime, evening and night-time periods. • Predicted impact from noise will remain within NG4[4] guideline limits for the operational phase of the project, together with the nearby quarry included, during daytime, evening and night-time periods. • The impact from dust has been modelled and shows that no significant impact will occur to any sensitive receptor from construction or operation. • No significant impact to any sensitive receptor will occur from odour during the operational phase. • The operation of the facility will be regulated by a waste facility permit from Offaly County Council during phase 1, and an Industrial Emissions Licence from the Environmental Protection Agency during phase.

1.24.1. Material Assets, Cultural Heritage and the Landscape

Material Assets, Cultural Heritage and the Landscape	
EIAR	These issues are mainly dealt with in chapter 14, and chapter 15 of the EIAR.
Submissions	Issues have been raised by observers to the planning authority and in the grounds of appeal in relation to negative impact on landscape and heritage, particularly impact on views from Croghan Hill; negative impact on proposed

[3] British Standard BS 5228-1: 2009+A1:2014 Code of Practice for Noise and Vibration Control on Construction and Open Sites – Noise.
[4] Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4), published by the Environmental Protection Agency, Office of Environmental Enforcement (OEE)

	walking trail development. This is addressed under separate heading in the Inspector's report.
Potential Impacts	Assessment and Mitigation Measures: No notable issues arise.

1.31.1. Interactions Between the Factors

Interactions Between the Factors	
EIAR	This is dealt with in each chapter and in chapter 16 of the EIAR.
Submissions	No issues were raised
Potential Impacts	Assessment and Mitigation Measures No notable issues arise.

2.0 **Reasons & Conclusions**

2.1.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the developer, and the submission from the planning authority, prescribed bodies, appellants, and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- Impact on water quality from construction and operation, which will be mitigated by the measures in the CEMP and operational measures which will mitigated by the design of the facility and by being regulated by a waste facility permit from Offaly County Council during phase 1, and an Industrial Emissions Licence from the Environmental Protection Agency during phase 2.

I do not consider that the proposed mitigation during operation is adequate having regard to the lack of clarity regarding use of water for firefighting and the management of firewater; and the lack of clarity regarding monitoring to ensure compliance with the commitment that only uncontaminated surface water will

discharge to the drain; such as to ensure that it would not pose a threat to the receiving waters, sensitive downstream rivers.

I do not consider that the monitoring of the stormwater discharge and that the receiving surface waters is adequate such as to ensure that it would not pose a threat to the receiving waters, sensitive downstream rivers and sensitive receptors.

2.1.2. In the absence of adequate provision for firewater and its management, permission should not be granted. In the absence of adequate proposals for water quality monitoring, permission should not be granted.

2.1.3. I am not satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment.

Planning Inspector

17 July 2024