Inspector's Report
ABP-319599-24

Development	Extension of inert waste disposal site for filling of soil and stone over 2 years and all ancillary site works. Site to be covered in topsoil, seeded and restored to agricultural use. A Natura Impact Statement will be submitted to the planning authority with the application.
Location	Banntown, Huntingtown, Gorey, Co. Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20240159
Applicant(s)	Sean Kinsella Site Developments Limited
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Peter Sweetman
Observer(s)	none

Date of Site Inspection	14th November 2024
Inspector	Aisling MacNamara

1.0 Site Location and Description

1.1. The proposed development site is located in a rural area approximately 6km south-west of Gorey town in north Co. Wexford. The development is located at the site of an existing permitted facility for the importation of inert soil and for use of the land for agricultural activity. The area of the overall site is 4ha (fill area is 0.7ha) and is accessed via local road L5075 approximately 3km north west of the village of Clough.

1.2. The western boundary of the site is formed by the L5075 road. The northern boundary adjoins the River Bann. The eastern boundary is to agricultural lands. There is a former quarry to the southwest of the site at which there is an existing construction and demolition facility that is being operated by the applicant. The entrance to the site is via an existing laneway to the public road that flanks the southern boundary and which is used to access the construction and demolition facility and the adjoining agricultural lands.

1.3. An existing drainage channel / small stream (Island Lower stream) runs south to north roughly through the centre of the site to link to the River Bann to the north. This stream originates near the southern boundary of the site. The stream is piped under the proposed fill area and is open to the north of the fill area.

1.4. Levels across the site vary however generally the levels fall from +91.0 in the south west corner across the site to +55 in the north east corner. The fill is to be located at the southern part of the site, where levels fall from between c +83.00 at the western flank to the lower ground of c +74.00 at the centre and up to c +82.00 at the eastern flank. The western flank contains ‘made’ ground / existing fill that extends along the side of the stream.

1.5. There is a one off rural house located on the eastern side of the L5075 opposite the site. There is a cluster of one off houses located south of the site along the L5075.

2.0 Proposed Development

2.1. The proposed development comprises the following:

- Permission to extend an existing waste disposal site for filling of soil and stone (from greenfield uncontaminated sources) by 43000 tonnes over 2 years.
- As a result of the proposed development, the existing fill area of 82,000 tones is proposed to be increased to 125, 000 tonnes.
- The area for the proposed fill is 0.7ha located on the southern part of the overall site.
- It is intended to reclaim the site for agricultural land and upon completion of the fill, it is proposed to import and spread subsoil and topsoil on top of the existing uneven ground which will be seeded.
- Ancillary works including access, soil storage and quarantine areas, drainage measures and silt fence and berm

3.0 Planning Authority Decision

3.1. Decision

The planning authority issued a notification of decision to grant permission on 10th April 2024, subject to 10 conditions. Conditions of note include:

- Condition 2 – The permission is a temporary permission only and shall expire 5 years from the date of the final grant of permission.
- Condition 3 – The mitigation measures outlined in the Natura Impact Statement shall be undertaken.
- Condition 4 – Details to be agreed for installation of silt trap netting along the watercourse prior to construction of earthen berms.
- Condition 5 – Noise from the development at the facing elevation of any dwelling in the area shall not be higher than 55dB(A) during 0700-2100 and 42 dB(A)(Laeq 1 hour) during 2100-0700 Sundays and Bank Holidays. The noise is not to be impulsive or have any tonal element which is 5dB(A) above the adjacent frequencies.

- Condition 6 – Dust or particulate release to air shall not exceed 350mg/m² per day and sets out standards for measuring equipment.
- Condition 7 – Noise, dust and surface water monitoring shall be undertaken at the facility at locations identified on the site layout map and results submitted to Wexford County Council on a monthly basis.
- Condition 8 – relates to road cleaning.
- Condition 9 – The site entrance gate shall be locked at all times when the operators staff are not present on site – to prevent illegal dumping.
- Condition 10 – All imported soil and stone shall be screening for invasive species off site.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- The report of the Senior Executive Planner sets out an assessment and recommendation for grant of permission. The key considerations include:
    - Planning history outlined including permissions for importation of material on the site. The proposed infilling of lands using imported inert material consisting of natural materials of clay, subsoil and stone to raise levels to improve the land for agricultural purposes is acceptable.
    - On site visit it was noted that there was stored topsoil on site waiting to be filled – soil appeared clean and no obvious contamination.
    - AA required – NIS submitted - The importation of soil will not impact on River Bann and therefore no impact on the receiving waters of Slaney River and associated qualifying interests of Slaney Rive SAC.
    - EIAR not required.

3.2.2. Other Technical Reports

- Report of the Senior Executive Scientist, Environment Section states that the proposal is satisfactory.

- Roads report – recommends grant of permission subject to conditions to maintain sightlines, maintain public roads, for management of surface water.

3.3. **Third Party Observations**

One third party submission (the appellant) was received, raising the following:

- A planning authority has four legal tasks in dealing with an application – (i) assess an application in accordance with the Planning and Development Act 2000 (as amended), (ii) form and record a view as to the environmental impacts of the development considering the EIA Report, the views of public and applying its own expertise, or to screen the development for EIA, (iii) apply the Habitats Directive, (iv) need to carry out assessment of compliance with the requirements of the Water Framework Directive.
- The development is within the zone of influence of the Slaney River Valley SAC and Appropriate Assessment is required.
- The site is designated for Margaritifera margaritifera (freshwater pearl mussel). There are no conservation objectives for margaritifera margaritifera in the Slaney River Valley SAC.

4.0 **Planning History**

The following relates to the appeal site:

- PA20231105 - Sean Kinsella Site Developments Ltd – refused Nov 2023 – permission to extend an Inert Waste Disposal Site for the filing of soil and stone by 43,000 tonnes over 2 years and all ancillary site works, extending the existing fill area of 82,000 tonnes to give an overall fill area of 125,000 tonnes. The site when filled will be covered in topsoil, seeded and restored to agricultural use. Refusal reason: (i) unable to conclude would not adversely impact on Natura 2000 site (no NIS submitted and hydrological link to Slaney River Valley SAC).
- PA20201189 – Sean Kinsella Site Developments Ltd – grant Dec 2020 – permission for the extension of an inert waste disposal site for the filling of soils and stone by 58,000 tonnes, extending the existing fill area of 23,500

tonnes to give an overall fill area of 82,000 tonnes. The site when filled will be covered with topsoil, seeded and restored to agricultural use and include the construction of an earth berm. A NIS is submitted.

- PA20181004 – Sean Kinsella Site Developments Ltd – grant Sept 2018 – permission to import natural materials (c 23,500 tonnes over two years), principally stone, stone and broken rock in order to level off agricultural land by way of rising existing site levels within an area of 0.7ha (within an overall site area of 7.85ha) including drainage and cover soil and seeding to use as agricultural land. A NIS is submitted.
- PA20170886 – refused permission to import inert material – Sept 2017
- PA20170176 – refused permission to import inert material – April 2017

The following relates to the adjoining lands to the south:

- PA20140176 – Sean Kinsella Site Developments Ltd – PA grant, PL26.243420 amends s.48 condition Sept 2014 – permission for construction and demolition facility. A NIS is submitted.
- PA20120479 – Sean Kinsella Site Developments Ltd – PA grant, PL26.241399 regarding development contributions April 2013– permission for the rehabilitation to agricultural / amenity use of a dormant quarry by the importation of inert soils and subsoils.

5.0 Policy Context

5.1. National and Regional Planning Policy

- Climate Action Plan 2024
- National Biodiversity Action Plan 2023-2030
- A Waste Action Plan for a Circular Economy – Ireland's National Waste Policy 2020-2025
- National Planning Framework – Project Ireland 2020 (NPF)

  NPO 23 - Facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector, together

with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.

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

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

- Construction and Demolition Waste Soil and Stone Recovery / Disposal Capacity Update Report 2020. The report was published by the combined regional authorities. The report includes 9 recommendations. Recommendation 2 is as follows: *"Notwithstanding the sectoral approach to a more circular economy, there is still a capacity gap for non hazardous CDW streams, in particular soils, fines, rubble and concrete. It is recommended that additional disposal capacity is provided for this stream in the short to medium term to facilitate progress on key infrastructure under the National Development Programme"*
- Southern Regional Assembly Regional Spatial and Economic Strategy for the southern region

  RPO107 It is an objective to support innovative initiatives that develop the circular economy through implementation of the Regional Waste Management Plan for the Southern Region 2015-2021 and its successor.
- Southern Regional Waste Management Plan 2015-2021 provides a framework for the prevention and management of waste in a safe and sustainable manner.

  E14 The local authorities will co-ordinate the future authorisations of backfilling sites in the region to ensure balanced development serves local

and regional needs with a preference for large restoration sites ahead of smaller scale sites with shorter life spans. All proposed sites for backfilling activities must comply with environmental protection criteria set out in the plan.

5.2. Development Plan

Wexford County Development Plan 2022-2028

Chapter 6 Economic Development Strategy

Objective ED99 To facilitate the development of sustainable agricultural practices and facilities within the county, subject to complying with best practice guidance, normal planning and environmental criteria and the development management standards in Volume 2.

Chapter 9 Infrastructure Strategy

9.7 Waste Management Infrastructure

- Objective WM01 To sustainably manage waste generation, support the investment in different types of waste treatment and support circular economy principles, prioritising prevention, reuse, recycling and recovery, to support a sustainable and healthy environment, economy and society.
- Objective WM02 To implement the provisions of the Southern Region Waste Management Plan 2015- 2021, and any updated version published during the lifetime of the Plan, subject to compliance with the Habitats Directive and normal planning and environmental criteria
- Objective WM03 To support the development of appropriately sited waste recycling and recovery facilities, such as bring centres, civic amenity centres, waste transfer stations, material recovery facilities, community recycling facilities and waste recovery facilities and authorised treatment facilities for end-of-life vehicles as a means of facilitating a reduction in the quantity of waste that goes to landfill disposal sites subject to compliance with the locational requirements for waste management facilities contained in Section 9.7.3 and subject to compliance with Objectives WM05 or WM06, normal

planning and environmental criteria and the relevant development management standards set out in Volume 2.

- Objective WM06 Where it is proposed to develop waste management facilities on unzoned land, the following criteria should be satisfied:
    - The need for the proposal at the particular location, in particular having regard to the Southern Region Waste Management Plan 2015-2021, the Irish Water National Sludge Waste Management Plan 2016-2021, and any future updated versions of these plans produced during the lifetime of the Plan.
    - The site should be within or as near as possible to Wexford Town and Gorey Town (as Key towns) or Enniscorthy Town and New Ross Town (as Large Towns).
    - The site should be located outside of a flood risk area.
    - There should be no adverse impacts on amenities.
    - There should be a minimal risk of pollution.
    - The development should comply with the requirements of the Water Framework Directive, the National River Basin Management Plan 2018-2021 and any future updated version during the lifetime of the Plan.
    - The development must comply with the requirements of the Habitats Directive

Chapter 10 Environmental Management

10.5.1 Water Framework Directive

- Objective WQ01 To protect existing and potential water resources for the county, in accordance with the EU Water Framework Directive (2000/60/EC), Bathing Water Directive (2006/7/ EC), the National River Basin Management Plan 2018-2021 and any updated version, the Pollution Reduction Programmes for designated shellfish waters, the provisions of a Groundwater Protection Scheme for the county and any other protection plans for water supply sources, with an aim to improving all water quality
- Objective WQ15 To ensure that development permitted would not negatively impact on water quality and quantity, including surface water, ground water,

designated source protection areas, river corridors and associated wetlands, estuarine waters, coastal and transitional waters

Volume 2 Development Management Manual

- Section 5 Enterprise and Employment Developments, 5.9 Facilities for Disposal of Inert Materials
- Section 6 Transport and Mobility
- Section 7 Heritage and Landscape
- Section 8 Infrastructure and Environmental Management

Volume 7 Landscape Character Assessment

- Landscape Character Unit map – site is located in Lowlands landscape area

5.3. Natural Heritage Designations

Special Protection Areas:

Cahore Marshes SPA – 16km to southeast

Seas off Wexford – 18km to southeast

The Raven SPA – 26km to southeast

Wexford Harbour and Slobs SPA – c 23km to southwest

Special Area of Conservation:

Northern boundary of site directly abuts Slaney River Valley SAC

Kilpatrick Sandhills SAC – c 17km to northeast

Cahore Polders and Dunes SAC – c 16km to southeast

Kilmuckridge – Tinnaberna Sandhills SAC – c 19km to southeast

5.4. EIA Screening

A pre-screening, preliminary examination and EIA screening has been carried out. These assessments are set out in forms 1, 2 and 3 that are attached as appendices to this report.

The proposed development was determined to be sub-threshold for the purposes of Part 10 of the Planning and Development Regulations 2001 (as amended, i.e. it is

not a class of activity for which an EIA is mandatory as prescribed by Part 1 of Schedule 5 and it is also below the thresholds stipulated in class 1(a), class 11(b) and class 13(a) of Part 2 of Schedule 5. It was concluded that there is a significant and realistic doubt regarding the likelihood of significant effects on the environment and that schedule 7A information is required to enable a screening determination to be carried out. It was considered that the information available on file was satisfactory to enable a screening determination.

An EIA screening determination has been carried out and it is concluded that the proposed development would not be likely to have a significant effect on the environment and that an environmental impact assessment report is not required. This conclusion is based on the following:

(i) The criteria set out in Schedule 7, in particular,
- the nature and scale of the proposed development within an existing rural area and at the site of an existing permitted facility to import inert natural materials for use as agricultural land, which is below the thresholds for mandatory environmental impact assessment as set out in class 1(a), class 11(b), class 13(a) of part 2 of the Schedule 5 of Planning ad Development Regulations 2001 (as amended)
- the absence of any significant environmental sensitivities at the location of the site,
- the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended),
- the cumulative effects with the existing permitted inert waste facilities on the site,

(ii) the results of other relevant assessments of the effects on the environment, including the Strategic Environmental Assessment of the Wexford County Development Plan, the Natura Impact Statement carried out as part of the proposed development and the Environmental Impact Assessment screening and Natura Impact Assessments carried out for the permitted fill facility on the site.

(iii) the features and measures to avoid or prevent what might otherwise have been significant effects on the environment and in particular measures to

protect the water quality of water bodies and to prevent significant adverse impacts from noise, air contamination or invasive species arising from the development.

I conclude that the proposed development would not be likely to have a significant effect on the environment and that an environmental impact assessment report is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The main points of the grounds of appeal can be summarised as follows:

- The planners report refers to a submitted NIS. No Appropriate Assessment which complies with the judgement of case CJEU Case 258/11 has been carried out.
- ABP is required to examine the application to ascertain if the contents of the application comply with Planning Regulations, particularly Articles 22 and 23 of 2001 Regulations. It must assess the planning merits of the application in accordance with the Planning and Development Act 2000 (as amended) to ensure that the development is in accordance with the proper planning and sustainable development of the area.
- ABP must comply with Environmental Impact Assessment Directive. ABP is required to screen for EIA if no EIA report is submitted and if an EIA report is submitted, it is required to form and record a view to the environmental impacts of the development considering the EIA Report, the views of the public and applying its own expertise. ABP is required to examine if an EIAR is in compliance with the information referred to under Article 4(4) of the Directive.
- ABP is the competent authority for AA and has responsibility for screening and making a decision under Article 6.3 of the Habits Directive. Reference is made to legal decisions:

- The legal case for screening is found in 259/11 Sweetman & Others v ABP and also Kelly v ABP IEHC 400, 2014 - if there is a possibility of significant effect on the site there is a need for appropriate assessment for the purposes of Article 6(3).
- The threshold AA must pass is explained in CJEU Case 258/11- the assessment carried out under Article 6(3) should not have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing reasonable scientific doubt as to the effects of the works on the protected site. ABP does not have legal jurisdiction to give permission if it is not met.

6.2. Applicant Response

The applicant has responded to the grounds of appeal and this response is summarised as follows:

- A thorough assessment has been carried out in accordance with the relevant legal requirements and directives.
- A Stage 2 NIS has been submitted. This NIS includes both screening and detailed impact assessments, addressing the Habitats Directive. The conclusion indicates that the proposed development with proposed mitigation measures, is unlikely to have a significant adverse effect on the integrity of any Natura 2000 site.
- The preliminary screening process for EIA has been conducted by the local authority. Based on this screening, it has been determined that the proposed development is not within Part 1 or Part 2, Schedule 5 and therefore no EIA / screening is required.
- The proposed development adheres to all legal requirements and regulations.

6.3. Planning Authority Response

None

6.4. **Observations**

None

7.0 Assessment

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

- Procedural matters
- Principle of Development
- Appropriate Assessment
- Environmental Impact Assessment
- Water Framework Directive (potential new issue)

7.2. **Procedural matters**

7.2.1. The appeal makes reference to the requirements of An Bord Pleanala to carry out its functions in accordance with the Planning and Develoment Act 2000 (as amended). Reference is made to the need to ensure that an application complies with Articles 22 and 23 of the Planning and Development Regulations 2001 (as amended) which relate to the content of a planning application and for additional information or particulars to accompany an application.I note that the planning authority validated the application and I am satisfied that the contents of the application is satisfactory to allow assessment.

7.3. **Principle of development**

7.3.1. The proposed development is located on lands within an unzoned rural area in County Wexford. It is proposed to extend the capacity of the existing permitted inert waste disposal site for the filling of soil and stone. The existing facility was granted permission under PA20181004 and PA20201189 which have been implemented. These two permissions combine to give a combined capacity of 82,000 tonnes on the permitted facility. It is proposed to extend this capacity by a further 43,000 tonnes

over a two year period. It is stated that the facility will operate within the threshold of a waste facility permit and that the material is a non- waste by product under Article 27 of the European Communities (Waste Directive) Regulations 2011.

7.3.2. The proposal to provide a facility for inert waste is in line with objectives WM01, WM03 and WM06 of the Wexford County Development Plan which generally aim to support the development of waste facilities subject to environmental criteria and development management standards.

7.3.3. Objective WM02 of the CDP is to implement the provisions of the Southern Region Waste Management Plan 2015-2021 which includes policy E14 that identifies a preference for large restoration sites ahead of smaller scale sites with shorter life spans. The proposed development is to extend an existing facility and this is in line with the objective to provide large restoration sites in favour of smaller sites.

7.3.4. The Construction and Demolition Waste Soil and Stone Recovery / Disposal Capacity Update Report 2020 pepared on behalf of the three Regions, identifies that there is a capacity gap for non hazardous construction and demolition waste streams and it is recommended that additional disposal capacity is provided to facilitate progress on key infrastructure under the National Development Plan. The proposed development is located within easy reach of the Greater Dublin area and close to Gorey town which is a Level 1 Key Town in the County Development Plan Settlement Hierarchy. The proposed development would provide additional disposal capacity to meet future growth.

7.3.5. The site is part of an existing agricultural farmholding. The proposal to continue to 'fill' a section of currently unused lands and restore the use of this land for agricultural use is in accordance with Objective ED99 of the Wexford County Development Plan to support agriculture. The landscape is within an undulating lowlands landscape that has a low landscape sensitivity. The site is not visually prominent and I am satisfied that the lands have capacity to absorb the development without signficant visual intrusion.

7.3.6. Having regard to the use of the site for an established inert waste disposal facility and the policy to support developments of this nature, I am satisfied that the principle of the proposed development is acceptable at this location and is in accordance with

the key strategic policy objectives in the Wexford County Development Plan 2022-2028 and is in accordance with national and regional policy relating to waste.

7.3.7. Should permisison be granted it is recommended that a condition be attached to control the intensity of fill so that it is spread across the two year period proposed by the applicant. The operation of the facility can be controlled by a condition to limit the amount of fill to a maximum of 21,500 tonnes per year.

7.4. Appropriate Assessment

7.4.1. The appeal makes reference to the legal requirements of An Bord Pleanala as a competent authority, to carry out appropriate assesessment under Article 6(3) of the Habitats Directive of the potential adverse effects of the proposed development in combination with other plans or projects on Special Areas of Conservation and Special Protection Areas.

7.4.2. The appeal states that no appropriate assessment which complies with the judgement in case CJEU 258/11 Peter Sweetman and Others v An Bord Pleanala has been carried out. This judgement ruled that a project may only be authorised on the condition that the competent authority is certain that there will not be an adverse effect on the integrity of a site and that there is no reasonable doubt as to the absence of effects. The appeal specifically refers to paragraph 44 of the judgement which relates to the need for certainty and states the following: *"So far as concerns the assessment carried out under Article 6(3) of the Habitats Directive, it should be pointed out that it cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned."*

7.4.3. I have carried out a stage 1 appropriate assessment screeening, in light of the requirements of S177 Planning and Development Act 2000 as amended. This is attached in Appendix 4 of this report. The screening concluded that the proposed development could result in significant effects on the Slaney River Valley SAC and that a stage 2 appropriate assessment is required.

7.4.4. I have carried out a stage 2 appopriate assessment which is attached in Appendix 5 of this report. This appropriate assesment is informed by the Natura Impact Statement (NIS) submitted by the applicant. The stage 2 assessment examines the potential adverse effects of the development on the Slaney River Valley SAC and

identifies that there is a possibility for signficant effects on this SAC in the absence of mitigation either arising from the project alone or in combination with other plans and projects as a result of hydrological impacts. The NIS includes specific mitigation measures to address the potential adverse effects on water quality. I am satisfied that these mitigation measures address any potential risk to the SAC associated with the degradation of water quality. I consider that it is reaonable to conclude that the proposed development, individually or in combination with any other plan or project would not adversely effect the integrity of the SAC in view of the sites conservation objectives. This conclusion is based on:

- Detailed assessment of all aspects of the proposed development that could result in significant effects or adverse effects on Natura 2000 sites within a zone of influence of the development site.
- Consideration of the conservation objectives of qualifying interest species and habitats.
- Consideration of the NIS which includes objective and scientific information and is carried out by a competent person.
- Application of mitigation measures designed to avoid adverse effects on site integrity and likely effectiveness of same.
- Regard to national guidance and the information available on National Parks and Wildlife Service (NPWS) website regarding the Natura 2000 sites.

7.4.5. I am satisfied that there is no reasonable scientific doubt as to the absence of any effects. This is based on the following:

- The information provided in the NIS report which has been prepared by a competent and qualified person with expertise in ecological and environmental matters and who has experience in appropriate assessment.
- The NIS report presents scientific evidence and includes up to date information on the baseline receiving environment including soils, geology, flooding, invasive species, annex IV species, protected species, habitats, hydrology, watercourse network, hydrogeology, water quality status and water risk status. The information is collected from a desk top and field research and from reliable sources including from the EPA, NPWS, GeoHive, National

Biodiversity Data Centre, Wexford County Council and an on site fossitt habitat survey.

- The methodology is in accordance with the legislative requirements of the Habitats Directive and best practice advice which is listed in the NIS and which includes 'Appropriate Assessement of Plans and Projects in Ireland Guidance for planning authorites'. Regard has also been paid to case law which is listed in the NIS.
- The mitigation measures are detailed and are site specific and show how any potential adverse impacts on water quality can be avoided. These measures include best practice construction, drainage infrastructure, controls on use of fuels and chemicals, a silt fence and earth berm and monitoring and waste management.

7.4.6. I am satisfied that the appropriate assesment conclusion is based on complete and precise scientific information and that findings are definitive. I am satisfied that no reasonable scientific doubt remains as to the absence of effects on the SAC.

7.4.7. In conclusion, I am satified that the appropriate assessment is robust and reliable and that the assessment has been carried out in accordance with Article 6(3) of the Habitats Directive.

7.5. Environmental Impact Assessment

7.5.1. The appeal makes reference to the need to consider the environmental impacts of the development having regard to the Environmental Impact Assessment Directive.

The EIA Directive is transposed into Irish legislation by the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended). Both the EIA Directive and Irish legislation set out in detail the entire EIA process.

7.5.2. The first stage in this process is to consider whether there is a need to carry out an EIA and whether there is a need to prepare an Environmental Impact Assessment Report (EIAR).

7.5.3. As set out above in section 5.4 and in the attached appendices 1, 2 and 3, I have carried out a detailed screening assessment and I have concluded that the proposed

development would not be likely to have a significant effect on the environment and that an environmental impact assessment report is not required.

7.5.4. I am satisfied that the requirements as per the Environmental Impact Assessment Directive have been complied with.

7.6. Water Framework Directive (potential new issue)

7.6.1. Whilst not raised in the appeal, the appelants third party submission to the planning authority raised the issue that regard should be paid to the requirements of the Water Framework Directive. As impact on water bodies is a signficant issue in this case, I consider that the Water Framework Directive should be considered.

7.6.2. Objectives WQ01 and WQ15 of the County Development Plan aim to protect water resources in accordance with the Water Framework Directive and to ensure that any development does not negatively impact on water quality. The Water Framework Directive requires EU member states to achieve a water quality of at least a 'good' status in water bodies including rivers and groundwater by 2027.

7.6.3. The site contains an existing stream and adjoins the Bann River to the north. The site is part of the Bann_040 river water body. The Water Framework Directive status of that complex was listed 'good' in the most recent data period 2016-2021. The most recent published records for water quality (Q Biological Quality Rating) in the River Bann near the site show that water sampled at the monitoring station at Island Bridge downstream of the site had a Q rating of 4-5 in 2022 which is a good to high status indicating that water quality is satisfactory. The water sampled at the Bann station which is the closest station to the development was sampled in 2001 with a Q rating of 3-4 which is moderate. This data is much older than the 2022 sample and therefore is of less relevance.

7.6.4. The site is located within the Ballyglass ground water body. The Water Framework Directive status of that complex was listed as 'good' for the period 2016-2022.

7.6.5. The site already contains an existing fill facility that has been operating for a number of years and the water quality measured in the Bann river downstream of the site is of 'good' status. Therefore the existing facility is operating without impacting on water quality and it is considered likely that the proposal to extend the capacity of the facility is not likely to pose a new risk to water quality.

7.6.6. Both water bodies are considered to be ‘at risk’ of not meeting water framework objectives by 2027 (primarily based on monitoring data up to the end of 2018). It has been identified that the river is at risk from anthropogenic pressures such as nutrient, organic and sediment pollution. It is identified that groundwater is under agriculture and anthropogenic pressure. The applicant has proposed a range of measures to protect water quality. These are outlined in the submitted Natura Impact Statement and include measures such as silt barrier and berm, drainage, operating to best practice standards and measures to ensure chemicals and fuel do not enter water bodies. These measures ensure that there would be no risk to water quality.

7.6.7. Should permisison be granted, it is recommended that a condition be attached requiring final details be submitted for the design and location of the propoosed silt barrier and berm that is required to protect water quality and which is a mitigation measure to avoid adverse impacts on the Slaney River Valley SAC. It is also recommended that the fill be located a minimum of 10m from the open stream to the north of the fill and that is would provide separation between the fill and the stream.

7.6.8. A section of stream has been piped and it is proposed to construct a new drain under the proposed fill area within a stone filled trench. The Environment Section of the local authority have not rasied any issues in relation to these works. Should permission be granted, it is recommended that a condition be attached requiring the agreement of design details for the drain and piped stream with the planning authority.

7.6.9. In conclusion, I am satisfied that the proposed development can be carried out without resulting in adverse impacts on the water quality of surface or ground waters and that the proposed development would not compromise the achievement of a ‘good’ water quality status under the Water Framework Directive.

8.0 **Recommendation**

I recommend that planning permission is granted for the development.

9.0 Reasons and Considerations

Having regard to the nature and extent of the proposed development for the infilling of land with inert material, and its location within a rural agricultural area, it is considered that subject to compliance with the conditions set out below, the proposed development would not be prejudicial to public health and would not seriously injure the amenities of the area or property in the vicinity. The proposed development would be in accordance with the policies and objectives of Wexford County Development Plan 2022-2028 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. **Reason**: In the interest of clarity.
2.	(a) The maximum quantity of inert soil and stone shall not exceed 21,500 tonnes in any one year. (b) The developer shall keep a written record on site of all the material imported to the site (volume and classification) and this shall be made available for inspection by the planning authority upon request. **Reason:** In the interest of clarity, traffic safety, to protect residential amenities and for the protection of the environment. .

3.	The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. This shall include the following: (a) The developer shall be responsible for the full cost of repair in respect of any damage caused to the public roadway arising from the construction works and operations and shall make good any damage to the road to the satisfaction of the planning authority. (b) Proposals for the suppression of dust on site and on the access road. (c) Proposals for the bunding of fuel and lubrication storage areas and details of emergency action in the event of accidental spillage. (d) Proposals for the disposal of waste material offsite. (e) Proposals to prevent the introduction of invasive species onsite. (f) Proposals for keeping the public road free of muck, dirt and debris including cleaning arrangements, and location of the wheelwash facility. (g) Details of site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility. (h) Proposals for the monitoring of water, dust and noise. **Reason:** In order to safeguard local amenities.
4.	(a) A minimum 10m wide buffer zone shall be maintained between the part of the site to be filled and the adjacent open stream. (b) A silt fence backed by a wall of hay bales and a 3.5m high earth berm shall be erected along the northern boundary to the infill area. (c) Detailed drawings showing the location and design of the buffer zone, silt barrier and earth berm shall be submitted for the written agreement of the planning authority prior to commencement of development.

	(d) No fill shall commence until the agreed works have been carried out to the written satisfaction of the planning authority. **Reason:** In the interests of orderly development, to protect water courses and for sustainable drainage.
5.	Prior to commencement of development, engineering drawings and details shall be submitted for the written agreement of the planning authority showing the following: (a) Design details of the drainage arrangements on the site including detailed designs of the proposed drain under the fill. (b) Design details of the piped section of stream including measures to protect the stream to accommodate the proposed development. The measures shall comply with the requirements of the planning authority. **Reason:** In the interest of public health, orderly development and to protect the stream and the environment.
6.	The importation of inert soil, stone and topsoil and the operation of associated machinery and any other site works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. **Reason:** To safeguard the amenity of property in the vicinity.
7.	The noise level from within the boundaries of the site, measured at noise sensitive locations in the vicinity, shall not exceed (a) an LAr,T value of 55 dB(A) between the hours of 0800 and 1900 from Mondays to Fridays and between the hours of 0800 and 1400 on Saturdays (excluding public holidays); and (b) an LAeq, T value of 45 dB(A) at any other time. **Reason:** To protect the residential amenities of property in the vicinity.
8.	During the construction stage, dust emissions shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge). **Reason:** To protect residential amenities of property in the vicinity

9.	The mitigation measures contained in the submitted Natura Impact Statement shall be implemented. **Reason:** To protect the integrity of European Sites.

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.

Aisling Mac Namara
Planning Inspector

4th December 2024

Appendix 1

Form 1 - EIA Pre-Screening

An Bord Pleanála Case Reference		319599		
Proposed Development Summary		Extension of inert waste disposal site for filling of soil and stone over two years and all ancillary site works. Site to be covered with topsoil, seeded and restored to agricultural use.		
Development Address		Banntown, Huntingtown, Gorey, Co.Wexford		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)			**Yes** X	Tick if relevant and proceed to Q2.
			No	Tick if relevant. No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?				
Yes	x	Part 2, paragraph 1 Agriculture, Silviculture and Aquaculture (a) *Projects for the restructuring of rural land holdings, undertaken as part of a wider proposed development, and not as an agricultural activity that must comply with the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011, where the length of field boundary to be removed is above 4 kilometres, or where re-contouring is above 5 hectares, or where the area of lands to be restructured by removal of field boundaries is above 50 hectares* Part 2, paragraph 11 Other projects: *(b) Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this schedule.* Part 2, paragraph 13 Changes, extensions, development and testing: *(a) Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would: - (i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and* *(ii) result in an increase in size greater than* *– 25 per cent, or* *– an amount equal to 50 per cent of the appropriate threshold, whichever is greater.*	Proceed to Q3. X
No			Tick if relevant. No further action required	

3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	x	Part 2, paragraph 1 Agriculture, Silviculture and Aquaculture *Projects for the restructuring of rural land holdings, undertaken as part of a wider proposed development, and not as an agricultural activity that must comply with the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011**, where the length of field boundary to be removed is above 4 kilometres**, or **where re-contouring is above 5 hectares**, or **where the area of lands to be restructured by removal of field boundaries is above 50 hectares*** Consideration: No field boundaries are to be removed. Re-contouring is under 5 hectares. Part 2, paragraph 11 Other projects: *Installations for the **disposal of waste** with an **annual intake greater than 25,000 tonnes** not included in Part 1 of this schedule.* Consideration: It is proposed to import waste subsoil and topsoil (soil and stones) from greenfield uncontaminated sources. It is proposed to fill by 43,000 tonnes over 2 years on 0.7ha. This is 21,500 tonnes per year. This is below the threshold. Part 2, paragraph 13 Changes, extensions, development and testing: *Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:-* ***(i) result in the development being of a class** listed in Part 1 or **paragraphs 1 to 12 of Part 2 of this Schedule,** and* ***(ii) result in an increase in size greater than*** ***– 25 per cent, or*** ***– an amount equal to 50 per cent of the appropriate threshold, whichever is greater.*** Consideration:	Proceed to Q4

		Under PA20181004 permission was granted in Sept 2018 to import inert soil and stone of 23,500 tonnes over two years over 0.7ha fill area. Under 20201189 permission was granted in Dec 2020 to extend the inert waste disposal site for filling of soil and stone by a further 58,500 tonnes on 0.9ha to give an overall fill on the site of 82,000 tonnes to be carried out over 5 years. In the subject proposal it is proposed to extend the inert waste disposal site for filling of soil and stone by a further 43,000 tonnes on 0.7ha over two years. The total permitted and proposed fill on the site is 125,000 tonnes. Between Sept 2018 and November 2026 (i.e. accounting for the current proposal for 43,000 tonnes over a two year period) the land would be filled over approximately an 8 year period which amounts to 15,625 tonnes per year. The total proposed fill in combination with the permitted fill is below the thresholds in paragraph 11 of part 2. Total recontouring and any removal of field boundaries is below the thresholds in paragraph 1 of part 2. The extension of the waste facility does not result in the overall development exceeding the thresholds and therefore will not result in the development 'being of a class' listed in paragraphs 1 to 12 of part 2.	
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	x	As above	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No		**Screening determination remains as above (Q1 to Q4)**
Yes		**Screening Determination required**

Inspector: _____ Date: _____

Appendix 2

Form 2 - EIA Preliminary Examination

An Bord Pleanála Case Reference Number	**ABP-** 319599
Proposed Development Summary	Extension of inert waste disposal site for filling of soil and stone over two years and all ancillary site works. Site to be covered with topsoil, seeded and restored to agricultural use.
Development Address	Banntown, Huntingtown, Gorey, Co.Wexford
The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. **This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.**	
Characteristics of proposed development	The proposal is essentially to 'fill in' a valley section of lands with uncontaminated soil and stone. Upon completion the lands are to be seeded for agricultural use. This is a proposal to fill the site for 43,000 tonnes over two years. The proposed fill area is 0.7ha. The submitted section drawings show that a fill between 3.5 to 4.5m in height is proposed within existing lands. The applicant states that the proposed fill material is a non-waste by product under Article 27 of the European Communities (Waste Directive) Regulations 2001. The proposal is to extend the capacity of an existing fill area. Permission was granted in Sept 2018 to import 23,5000 tonnes of inert soil and stone over an area of 0.7ha. In Dec 2020 permission was granted for a further 58,500 tonnes of inert soil and stone material over an area of 0.9ha. The adjoining site to the south is a former quarry. Permission was granted on the site in 2012 for importation of inert soils and in 2014 for a construction and demolition facility which is currently operating. The overall development is of relatively large size within this rural area.
Location of development	It is proposed to 'fill in' existing lands. The lands will be altered as a result of the development. There is an existing stream running through the lands which links in the north to the Bann River. There is a distance of approximately 260m between the fill and the Bann River. The River Bann is part of

	the Slaney River Valley SAC. There is potential for impacts on the water quality of the stream. There are potential impacts on ground water. There is a hydrological pathway between the site and the Slaney River Valley SAC and there is potential for impacts on the SAC. There are potential impacts on the visual character of the landscape. There are potential impacts on flora and fauna. There are existing residential properties in the vicinity that may be affected by noise, traffic or dust.
Types and characteristics of potential impacts	Having regard to the characteristics of the development and the sensitivity of the location, there is potential for significant effects on the environment associated with the proposed development in combination with other permitted developments. The operational impacts are short term however the impact on the landscape and environment would be long term.

Conclusion

Likelihood of Significant Effects	**Conclusion in respect of EIA**	**Yes or No**
There is no real likelihood of significant effects on the environment.	EIA is not required.	
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	x
There is a real likelihood of significant effects on the environment.	EIAR required.	

Inspector:

_____Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 3

Form 3 - EIA Screening Determination Form

A. CASE DETAILS		
An Bord Pleanála Case Reference	319599	
Development Summary	Extension of inert waste disposal site for filling of soil and stone over two years and all ancillary site works. Site to be covered in topsoil, seeded and restored to agricultural use. A Natura Impact Statement is submitted	
	Yes / No / N/A	**Comment (if relevant)**
1. Was a Screening Determination carried out by the PA?	No	
2. Has Schedule 7A information been submitted?	No separate 'Schedule 7A Report' or 'EIA Screening report' is submitted. As per the requirements of Schedule 7A, the following information is to be provided by the applicant for the purpose of screening sub-threshold development for EIA: (i) A description of the proposed development including the physical characteristics and location of the development. (ii)description of the aspects of the environment likely to be significantly affected (ii) A description of any likely significant effects, to the extent of the information available, of the development on the environment resulting from residues and emissions and the use of natural resources. (iv) the information shall take account, where relevant, of the criteria in schedule 7. I am satisfied that I have sufficient information in the	

	documents and drawings to screen the development for EIA.		
3. Has an AA screening report or NIS been submitted?	Yes NIS submitted	It is concluded that there would be no adverse effect on the Slaney River Valley SAC or any other Natura 2000 sites, in combination with other plans or projects.	
4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No waste licence required from EPA.	As per the Waste Management Regulations 2019 – an EPA licence is required where soil recovery exceeds 200,000 tonnes of inert waste of excavation or dredge spoil comprising natural materials of clay, silt, sand , gravel or stone.	
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	yes	A NIS is submitted with the proposed application which concludes that there would be no adverse effect on a Natura 2000 site in combination with other plans or projects. Wexford County Development Plan 2022-2028 (SEA Statement outlines how environmental considerations have been taken into account and AA NIS was carried out) PA 20181004 (NIS carried out, EIA screening carried out concluding no EIAR required due to no significant adverse effects on the environment) PA20201189 (NIS carried out, EIA screening carried out concluding no EIAR required due to no significant adverse effects on the environment) PA20120479 (AA screening carried out) PA20140176 (NIS carried out)	
B. EXAMINATION	**Yes/ No/ Uncertain**	**Briefly describe the nature and extent and Mitigation Measures (where relevant)** (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity,	**Is this likely to result in significant effects on the environment ?** **Yes/ No/ Uncertain**

		and reversibility of impact) **Mitigation measures** –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	
This screening examination should be read with, and in light of, the rest of the Inspector's Report attached herewith			
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	The adjoining lands are generally agricultural in nature with some one off housing and other developments. These lands have already been subject to 'filling' and the proposed extension of this fill is in character with the activity already undertaken on the site. Post development, the lands would be returned to agricultural use which is similar to the surrounding land.		No
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes The topography of the land will be altered. It is proposed to fill a valley section of undulating lands. The CDP landscape character assessment designates the site as part of the lowlands landscape area which has a low landscape sensitivity. Ground levels will be increased by up to c 4.5m and the fill will remain below its flanking grounds. The site is not visually prominent and has a high		No

	capacity to absorb development. The resulting recontoured seeded agricultural lands will integrate into the surrounding landscape.		
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	It is proposed to 'fill' existing lands and to then use the 'filled' land for agriculture. The use of natural grounds is a resource which is in plentiful supply in this rural area. The development would require use of fuels for machinery and vehicles however due to the size and nature of the proposed development, there would be a relatively low reliance of fossil fuels.		No
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	It is proposed to import subsoil and topsoil (soil and stones) from greenfield uncontaminated sources. The cover letter states that the material is a non-waste by-product under Article 27 of the European Communities (Waste Directive) Regulations 2011.	Any hydrocarbons used for transportation or machinery can be managed subject to compliance with best construction practices.	No The residual risk is considered to be low once mitigation measures are implemented.
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	No		No
1.6 Will the project lead to risks of contamination of land or water from releases of	There is an existing stream traversing the site, however this has been piped in the part of the site to be filled and this	A list of measures to mitigate impacts on the water quality are set out in the NIS. These include a range	No The residual risk is considered to be low once

pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	essentially protects the stream. The open section of stream is located to the north of the fill area and there is a risk that runoff from the fill could degrade the water quality of the open stream. Regarding impact on ground water, the material to be deposited on the site is clean inert material and will not contain contaminants. Waste oil from construction plant or vehicles may leak to ground water.	of measures such as silt barriers to protect the open stream and measures to protect ground water from contamination such as refuelling off site, spill kits, best construction practices.	mitigation measures are implemented.
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	The development may give rise to noise impacts. Such impacts are temporary and localised and related to trucks entering and exiting the site and machinery, e.g. bulldozers on site. The nearest houses are c 150m to the northwest and 180m to the southwest.	Condition can be attached to control noise. Condition can be attached to limit hours of operation.	No The residual risk is considered to be low once mitigation measures are implemented.
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	There is potential for dust emissions. Such impacts are temporary and localised.	Any dust would not contain pollutants however there is potential for nuisance. Condition can be attached to control dust.	No The residual risk is considered to be low once mitigation measures are implemented.
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No significant risk is predicted having regard to the nature and scale of development. Any risks arising from importation and infilling will be localised and temporary		No
1.10 Will the project affect the social	No		No

environment (population, employment)	Due to the nature of the development, there will be no significant impacts on social environment		
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	The development is part of a larger permitted fill development that could result in cumulative impacts. However existing developments are subject conditions to protect the environment.		No
2. Location of proposed development			
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: • European site (SAC/ SPA/ pSAC/ pSPA) • NHA/ pNHA • Designated Nature Reserve • Designated refuge for flora or fauna • Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan	Yes – potential adverse impacts on Slaney River Valley SAC.	Yes – refer to AA	This can be adequately dealt with under the AA.
2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting,	The habitat assessment submitted in the NIS report states that the central portion of the site to be filled is predominantly spoil and bare ground with sparce vegetation and rushes. The eastern flank is exposed bedrock and devoid of vegetation. The western flank is	Condition can be attached to control spread of invasive species to the site.	No

over-wintering, or migration, be affected by the project?	the margin of the existing landfill site and bounded by silt fence. The southern flank has been seeded with agricultural grass. The northern flank is dense, damp scrub on the valley floor of the stream. There would be no impact on any existing ecologically sensitive habitat. The NIS report states that there was no known protected plant species, otter holts, badger setts or bat roosts at the site and no evidence of resting or breeding places for protected species. There would be no adverse impacts on protected species.		
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No		No
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No.		No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms	WFD groundwater quality status of the Ballyglass is good. Its present risk status is 'at risk'. WFD river quality status of the Bann_040 complex is good. The complex is rated 'at risk' of not achieving good status and is flagged with 'high status	Mitigation measures have been proposed to protect water quality.	No

of their volume and flood risk?	objective' of achieving 'good' water quality. The site is not located in a flood risk area.		
2.6 Is the location susceptible to subsidence, landslides or erosion?	No		No
2.7 Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No The site will not generate significant levels of traffic		No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	No		No
3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	There is potential for cumulative impacts associated with permitted fill under PA20181004 and PA20201189 of up to 82,000 tonnes on the site, however these permissions have been subject to EIA screening and are subject to conditions to protect the environment.		No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No		No
3.3 Are there any other relevant considerations?	No		No

C. CONCLUSION		
No real likelihood of significant effects on the environment.	x	EIAR Not Required
Real likelihood of significant effects on the environment.		EIAR Required

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

(iv) The criteria set out in Schedule 7, in particular,
- the nature and scale of the proposed development within an existing rural area and at the site of an existing permitted facility to import inert natural materials for use as agricultural land, which is below the thresholds for mandatory environmental impact assessment as set out in class 1(a), class 11(b), class 13(a) of part 2 of the Schedule 5 of Planning ad Development Regulations 2001 (as amended)
- the absence of any significant environmental sensitivities at the location of the site,
- the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended),
- the cumulative effects with the existing permitted inert waste facilities on the site,

(v) the results of other relevant assessments of the effects on the environment, including the Strategic Environmental Assessment of the Wexford County Development Plan, the Natura Impact Statement carried out as part of the proposed development and the Environmental Impact Assessment screening and Natura Impact Assessments carried out for the permitted fill facility on the site.

(vi) the features and measures to avoid or prevent what might otherwise have been significant effects on the environment and in particular measures to protect the water quality of water bodies and to prevent significant adverse impacts from noise, air contamination or invasive species arising from the development.

The Board concluded that the proposed development would not be likely to have a significant effect on the environment and that an environmental impact assessment report is not required.

Inspector _____ Date _____

Approved (DP/ADP) _____ Date _____

Appendix 4

Appropriate Assessment Screening

Screening the need for Appropriate Assessment

The proposed development and site characteristics

I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The applicant has submitted a Stage 1 Screening Report. The report concludes that the development has the potential to adversely affect the integrity of the Slaney River Valley Natura 2000 site. It states that appropriate assessment is required.

The planning authority stated that the appropriate assessment is required.

It is proposed to extend the capacity of an existing permitted inert waste disposal site by a proposal to import 43,000 tonnes of uncontaminated soil and stone over a two year period and to increase the capacity of the fill facility from current 82,000 tonnes to 125,000 tonnes. The application relates to a site area of 4ha, of which 0.7ha is the proposed fill area. Upon completion, the fill area will be covered with topsoil and seeded for agricultural use.

The site of the proposed development is within an existing undulating topography and which has already been subject to existing fill on the site. The soils on the site are classified as poorly drained river alluvium and well drained fine loamy drift with siliceous stones.

The site comprises six habitat types – spoil and bare ground, recolonising bare ground, active quarries and mines, refuse and other waste, improved agricultural grassland, scrub.

No protected species were identified.

No invasive species were recorded on the site.

There is a water body - Island Lower stream, flowing through the centre of the site. This stream discharges to the River Bann which in turn links to the River Slaney. This is part of the Bann_040 river waterbody which has a WFD status of 'good' and is 'at risk'. The latest monitoring results for the sampling station at Island Bridge showed that the station had a Q value of 4-5 in 2022. The site is within the Ballyglass ground water body which has a WFD status of 'good' and is 'at risk'. The stream is piped at the lower southern section of the site where new fill is proposed and is open at the upper northern section of the site closer to the Bann River.

Permission was granted in 2018 under PA20181004 to import inert natural materials of 23,000 tonnes over two years over 0.7ha to level the land for agricultural use. A NIS was submitted and the permitted works include a berm and buffer set back area to protect the stream

In 2021 permission was granted under PA20201189 to extend the capacity of the fill area by 58,500 tonnes to give an overall fill area of 82,000 tonnes. A NIS was submitted and the permitted works include a 3.5m berm with silt barrier to protect the stream.

These permissions include measures to protect an 'open' stream. However this stream is now partly piped and only open at the northern part of the site. It appears that this piping has been undertaken during a previous fill phase which extended over the site.

The adjoining lands to the south are in the control of the applicant. In 2012 permission was granted under PA20120479 to rehabilitate a dormant quarry by the importation of inert soils and subsoil. In

2014 permission was granted under PA20140176 for the operation of a construction and demolition facility on part of the site. A NIS was submitted with the application.

European sites

The site of the proposed development is located a distance of c 260m from the River Bann. The River Bann forms part of the Slaney River Valley SAC. The site is approximately 220m east of woodland at Ballynahillen that is part of the Slaney River Valley SAC.

The following European sites are identified as being within a possible zone of influence for the purpose of the screening test.

Table 1 Identification of relevant European Sites using source- pathway- receptor model

European site	Distance from proposed development (approx.)	Qualifying interests	Connections (source, pathway receptor	Considered for further screening
Slaney River Valley SAC 000781	Adjoins site	Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Alosa fallax fallax (Twaite Shad) [1103] Salmo salar (Salmon) [1106] Lutra lutra (Otter) [1355] Phoca vitulina (Harbour Seal) [1365]	Hydrological connection	yes
Cahore Marshes SPA 004143	16km	Wigeon (Anas penelope) [A050] Golden Plover (Pluvialis apricaria) [A140] Lapwing (Vanellus vanellus) [A142]	No connection due to distance and lack of hydrological or	

		Greenland White-fronted Goose (Anser albifrons flavirostris) [A395] Wetland and Waterbirds [A999]	ecological pathway	
Seas off Wexford SPA 004237	18km	Red-throated Diver (Gavia stellata) [A001] Fulmar (Fulmarus glacialis) [A009] Manx Shearwater (Puffinus puffinus) [A013] Gannet (Morus bassanus) [A016] Cormorant (Phalacrocorax carbo) [A017] Shag (Phalacrocorax aristotelis) [A018] Common Scoter (Melanitta nigra) [A065] Mediterranean Gull (Larus melanocephalus) [A176] Black-headed Gull (Chroicocephalus ridibundus) [A179] Lesser Black-backed Gull (Larus fuscus) [A183] Herring Gull (Larus argentatus) [A184] Kittiwake (Rissa tridactyla) [A188] Sandwich Tern (Sterna sandvicensis) [A191] Roseate Tern (Sterna dougallii) [A192] Common Tern (Sterna hirundo) [A193] Arctic Tern (Sterna paradisaea) [A194] Little Tern (Sterna albifrons) [A195] Guillemot (Uria aalge) [A199] Razorbill (Alca torda) [A200] Puffin (Fratercula arctica) [A204]	No connection due to distance and dilution effect	No
The Raven SPA 004019	26km	Red-throated Diver (Gavia stellata) [A001] Cormorant (Phalacrocorax carbo) [A017] Common Scoter (Melanitta nigra) [A065] Grey Plover (Pluvialis squatarola) [A141] Sanderling (Calidris alba) [A144] Greenland White-fronted Goose (Anser albifrons flavirostris) [A395] Wetland and Waterbirds [A999]	No connection due to distance and dilution effect	No

Wexford Harbour and Slobs SPA 004076	23km	Little Grebe (Tachybaptus ruficollis) [A004] Great Crested Grebe (Podiceps cristatus) [A005] Cormorant (Phalacrocorax carbo) [A017] Grey Heron (Ardea cinerea) [A028] Bewick's Swan (Cygnus columbianus bewickii) [A037] Whooper Swan (Cygnus cygnus) [A038] Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Wigeon (Anas penelope) [A050] Teal (Anas crecca) [A052] Mallard (Anas platyrhynchos) [A053] Pintail (Anas acuta) [A054] Scaup (Aythya marila) [A062] Goldeneye (Bucephala clangula) [A067] Red-breasted Merganser (Mergus serrator) [A069] Hen Harrier (Circus cyaneus) [A082] Coot (Fulica atra) [A125] Oystercatcher (Haematopus ostralegus) [A130] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Lapwing (Vanellus vanellus) [A142] Knot (Calidris canutus) [A143] Sanderling (Calidris alba) [A144] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156] Bar-tailed Godwit (Limosa lapponica) [A157] Curlew (Numenius arquata) [A160] Redshank (Tringa totanus) [A162] Black-headed Gull (Chroicocephalus ridibundus) [A179] Lesser Black-backed Gull (Larus fuscus) [A183] Little Tern (Sterna albifrons) [A195] Greenland White-fronted Goose (Anser albifrons flavirostris) [A395] Wetland and Waterbirds [A999]	The Slaney River connects at a linear distance of c 27km downstream to Wexford Harbour and Slobs. Due to distance, there is not likely to be any significant effect.	No

Kilpatrick Sandhills SAC 001742	17km	Annual vegetation of drift lines [1210] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Atlantic decalcified fixed dunes (Calluno-Ulicetea) [2150]	No ecological or hydrological pathway	No
Cahore Polders and Dunes SAC 000700	16km	Annual vegetation of drift lines [1210] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190]	No ecological or hydrological pathway	No
Kilmuckridge-Tinnaberna Sandhills SAC 001741	19km	Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]	No ecological or hydrological pathway	No

Likely impacts of the project (alone or in combination)

The following are the potential impacts that may result in significant effects on the conservation objectives of a European site, taking account of the size and scale of the project:

- Vegetation clearance may impact on designated sites. The development would not impact directly on the land take of the SAC. The habitat survey lists the habitats on the site. These habitats would not support QI species. However otters can move out of their habitat and the impact of vegetation clearance on otters requires consideration. **Effect A**
- Potential for uncontrolled release of particles to air may impact species and habitats. There is potential for dust to be blown onto the SAC. However due to nature of the activity, to infill lands and due to the distance from the SAC, it is not likely that there would be a significant impact and this impact can be excluded at this stage.
- Potential to impact on water quality (contamination and sedimentation) of surface water (Island Lower stream and Bann River) and groundwater. There is potential for surface water run off from the fill area to enter the stream or ground that links to the Bann River. The fill material is to be uncontaminated soil and stone and therefore there is limited risk that it will contain pollutants. However there is a risk that sediment will be washed into the stream which may impact on water quality. There is a risk that pollutants from machinery or vehicles could enter ground water and may seep to the river system and to the SAC. **Effect B**

- Noise and vibration may disturb and displace species. There is potential for noise and vibration from vehicles and plant to disturb or displace QI species. **Effect C**
- There is potential that artificial lighting associated with vehicles or plant may impact on species, however it is likely that this facility would operate during day light and therefore it is not likely that this would be a significant impact. This impact can be excluded at this stage.
- Introduction of invasive species from fill being brough to the site and introduction of invasive species at restoration stage. The SAC is a river habitat. Any terrestrial invasive species would not pose a risk to aquatic species QI. However there is a risk to the SAC oak woodland located to the east of the site. **Effect D**

The following are potential impacts associated with the proposed development 'in combination' with other plans or projects:

- There is a permitted inert disposal facility on the site. There is potential for cumulative impacts on the SAC. Permission was granted in 2020 under PA 20201189 and in 2018 under 20181004.
- Permission granted under PA20140176 and PA20120479 for soil importation and a construction and demolition facility at the site of the dormant quarry.
- Wexford County Development Plan 2022-2028 is the plan for the development of the area. The objectives of this plan have been subject to appropriate assessment.
- Permission was granted in July 2008 for a dwelling (PA 20081240) to the east with effluent to ground.
- Agricultural activities
- Existing developments in the vicinity including one off housing with on site waste water treatment systems

Likely significant effects on the European sites in view of the conservation objectives

There is potential for effects on the Slaney River Valley SAC.

This section of the assessment considers the effects of the proposed development 'alone' on the conservation objectives of the SAC.

Table 2 Conservation objectives of the Slaney River Valley SAC

	Effect A Vegetation clearance	Effect B Water quality	Effect C Noise and vibration	Effect D Invasive species
C1029 The status of the freshwater pearl mussel (Margaritifera margaritifera) as a qualifying Annex II species for the Slaney River Valley SAC is currently under review. The outcome of this review will determine whether a site-specific conservation objective is set for this species.	x	Y	x	x
There are no conservation objectives available for this qualifying interest. Notwithstanding, there is a risk that this QI would be impacted by contamination or sedimentation of water.				
1095 To restore the favourable conservation condition of Sea lamprey in the Slaney River Valley SAC, which is defined by a list of attributes and targets.	x	Y	x	x

Reason: It is a target that there is no decline in extent and distribution of spawning beds. Lampreys spawn in clean gravels. Contaminants and sediments washed into Island Lower Stream and on to the Bann River could adversely impact on gravels and water quality.				
1096 To restore the favourable conservation condition of Brook lamprey in the Slaney River Valley SAC, which is defined by a list of attributes and targets.	x	Y	x	x
Reason: It is a target that there is no decline in extent and distribution of spawning beds. Lampreys spawn in clean gravels. Contaminants and sediments washed into Island Lower Stream and on to the Bann River could adversely impact on gravels and water quality.				
1099 To restore the favourable conservation condition of River lamprey in the Slaney River Valley SAC, which is defined by a list of attributes and targets.	x	Y	x	x
Reason: It is a target that there is no decline in extent and distribution of spawning beds. Lampreys spawn in clean gravels. Contaminants and sediments washed into Island Lower Stream and on to the Bann River could adversely impact on gravels and water quality.				
1103 To restore the favourable conservation condition of Twaite shad in the Slaney River Valley SAC, which is defined by a list of attributes and targets:	x	Y	x	x
Reason: It is a target that there is no decline in extent and distribution of spawning beds. It is a target to maintain stable gravel substrate with very little fine material, free of filamentous algal growth and macrophyte growth. Contaminants and sediments washed into Island Lower Stream and on to the Bann River could adversely impact on gravels and water quality.				
1106 To restore the favourable conservation condition of Salmon in the Slaney River Valley SAC, which is defined by a list of attributes and targets.	x	Y	x	x
Reason: It is a target that there is no decline in number and distribution of spawning redds due to anthropogenic causes. It is a target that water quality is Q4 at all sites. Salmon spawn in clean gravels. Contaminants and sediments washed into Island Lower Stream and on to the Bann River could adversely impact on water quality and on gravels.				
1130 To maintain the favourable conservation condition of Estuaries in the Slaney River Valley SAC, which is defined by a list of attributes and targets.	X	x	x	x
Reason: These estuaries are downstream. Due to distance and dilution, it is not considered that there would be significant effects.				
1140 To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in the Slaney River Valley SAC, which is defined by a list of attributes and targets.	X	x	x	x
Reason: These mudflats are downstream. Due to distance and dilution, it is not considered that there would be significant effects.				
1355 To restore the favourable conservation condition of Otter in the Slaney River Valley SAC, which is defined by a list of attributes and targets.	x	Y	x	x
Reason: It is a target that there is no significant decline in distribution, that there is no significant decline in terrestrial habitat, that there be no significant decline in extent of river habitat, that that be no significant decline in couching sites and holts, that there be no significant decline in fish biomass available. The 10m terrestrial buffer along river				

shorelines are critical for otters. They will utilise freshwater habitats from estuary to headwaters and need lying up areas. Removal of any vegetation along the Bann River or Island Lower stream could impact on their territories. There is limited vegetation on the site that would be of any value to otters. The NIS states that there are no known otter holts at the site and no evidence of resting places for protected species. The stream that flows through the development site is presently piped and of limited value to otters. There are no habitats or species that are likely to attract otters to the site and therefore they are unlikely to be impacted by any noise impacts. Otters diet is dominated by fish including salmonids, eels and sticklebacks. Any impact on water quality could impact on fish and their source of food.				
1365 To maintain the favourable conservation condition of Harbour Seal in the Slaney River Valley SAC, which is defined by a list of attributes and targets.	X	x	x	x
Reason: Due to distance, it is not considered that there would be a significant impact.				
3260 To maintain the favourable conservation condition of Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation in the Slaney River Valley SAC, which is defined by a list of attributes and targets.	X	Y	x	X
Reason: It is a target that the concentration of nutrients in water is sufficiently low to prevent changes in species composition or habitat condition. Contaminants and sediments washed into Island Lower Stream and on to the Bann River could adversely impact on water quality.				
91A0 To restore the favourable conservation condition of old sessile oakwoods with Ilex and Blechnum in the Slaney River Valley SAC, which is defined by a list of attributes and targets.	X	x	x	x
Reason: There is a site of old sessile oakwood located c 220m to the west. It is a target that invasive species are absent or under control. There is a risk that invasive species brought to the site as fill could threaten the woodland habitat. However, due to the separation distance between the fill site and the woodland, there is limited risk of direct transmission to the site. The site is to be seeded with grass for agricultural use. No other planting is proposed. Therefore there is limited risk post seeding.				
91E0 * To restore the favourable conservation condition of Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion) in the Slaney River Valley SAC, which is defined by a list of attributes and targets.	x	x	x	x
Reason: There are sites of alluvial forests downstream. It is a target that invasive species are absent or under control.. However there is limited risk of transfer via the aquatic pathway.				

I conclude that the proposed development would have a likely significant effect on the following qualifying interests of the Slaney River Valley SAC

- the freshwater pearl mussel

- Sea lamprey
- Brook lamprey
- River lamprey
- Twaite shad
- Salmon
- Otter
- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation

Due to:

- Water degradation

In addition, it is considered that there is potential for the proposed development 'in combination' with other plans or projects. In particular, the cumulative effects associated with permitted inert waste disposal facility on the site and the in combination effects with the construction and demolition facility on the adjoining site.

Overall Conclusion

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on the Slaney River Valley SAC in view of the conservation objectives of a number of qualifying interest features of those sites.

It is therefore determined that Appropriate Assessment (stage 2) of the proposed development is required.

Appendix 5

Stage 2 Appropriate Assessment

The applicant has provided a Natura Impact Statement in accordance with the requirements of the Stage 2 Appropriate Assessment process. The report is prepared by Jim Hurley (BSc UCD 1965 Zoology, Botony, Geography) who has completed several reports on appropriate assessment.

I am satisfied that the submitted NIS is in accordance with current guidance / legislation / best practice. The baseline conditions are supported with sound scientific information. The potential impacts are clearly set out and supported by sound scientific information and knowledge. The evidence and data provided includes a baseline description of the proposed development site in section 4.1 and baseline determinations in section 8.3.

The NIS examines the potential adverse effects of the proposed development on the Slaney River Valley SAC. There is a possibility for significant effects on this Natura 2000 site in the absence of mitigation either arising from the project alone or in combination with other plans and projects as a result of hydrological impacts. All other Natura 2000 sites can be excluded from the need for further assessment.

The NIS incudes specific mitigation measures to address potential adverse impacts on water quality, summaried as follows:

- Compliance with best practice. All contractors and site manager will be required to implement planning conditions and mitigation measures.
- Drainage measures – one new land drain will be installed in a stone filled trench feeding to existing open surface natural outlet.
- No toxic chemicals will be used on site.
- Refuelling of machinery will be conducted in bunded areas offsite. No fuel will be stored on site. An emergency spill kit will be on site, emergency response procedure for spillages.
- No on site foul disposal – sanitary facilities are off site.
- SuDS principles will be implemented via a silt fence backed by wall of hay bales and fronted by 3.5m high earthen berm separating the fill from the stream.
- A water sample monitoring point is established downstream of the site. Water sampling will be carried out before infilling starts and during the fill process to monitor water quality on an ongoing basis.
- No waste will be generated from the proposed filling.
- Site will be restored for agricultural uses once infilling ceases.

On foot of the mitigation measures there would be no adverse effects on the qualifying interests of the Slaney River Valley SAC.

Regarding the possibility for in combination effects, I note the following are the main projects where there is potential for in combination effects:

- Permission was granted under PA20181004 and PA20201189 for fill on the site up to 82,000 tonnes. NIS reports were prepared for both permissions listing mitigation measures. This means that there would be no adverse impacts on any Natura 2000 site arising from these permissions. These permissions include berms, buffer areas and silt barriers to mitigate the potential for adverse impacts on the stream (which was open channel at the time of these applications). There is some evidence of the silt barriers on the site. However the stream has now been piped and effectively this addresses any risks to the stream. I am satisfied that there would be no adverse impact on the stream or other adverse impacts on the qualifying

interests of the Slaney River Valley SAC arising from the cumulative impacts of the developments.

- Regarding the risks associated with the in combination impacts of the adjoining construction and demolition facility and fill activity granted permission under PA20120479 and PA20140176, these permissions operate under existing permissions and have been subject to appropriate assessment requirements and therefore effects on Natura 2000 sites is ruled out. I am satisfied that there would be no adverse impact on the stream arising from the cumulative impacts of the development.
- Results have been provided of the water quality tested downstream of the site at Little Island Bridge which shows that the water tested in 2022 had a Q rating of 4-5. In 2007 the water quality at this same station was 4-5. This indicates that water quality downstream of the site has not deteriorated during the years that the existing facility has been operating.

Having reviewed the information submitted by the applicant, I am satisfied that potential impacts from the proposed development on water quality have been adequately addressed in the NIS. I am therefore satisfied that the proposed development individually or in combination with other plans or projects would not adversely effect the integrity of the European sites in light of their conservation objectives.

Appropriate Assessment Conclusion

I consider that it is reasonable to conclude on the basis of the information on the file which I consider adequate to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely effect the integrity of the Slaney River Valley SAC in view of the sites conservation objectives.

My conclusion is based on:

- Detailed assessment of all aspects of the proposed development that could result in significant effects or adverse effects on Natura 2000 sites within a zone of influence of the development site.
- Consideration of the conservation objectives of qualifying interest species and habitats.
- Consideration of the NIS which includes objective and scientific information and is carried out by a competent person.
- Application of mitigation measures designed to avoid adverse effects on site integrity and likely effectiveness of same.
- Regard to national guidance and the information available on National Parks and Wildlife Service (NPWS) website regarding the Natura 2000 sites.