



An  
Bord  
Pleanála

## Inspector's Addendum Report

**ABP-314964-22**

<b>Development</b>	Proposed development of a Circular Economy Campus and an Integrated Waste Management Facility
<b>Location</b>	Hollywood Great, Nag's Head, Naul, Co. Dublin, A41 YE92
<b>Planning Authority</b>	Fingal County Council (FCC)
<b>Applicant</b>	Integrated Materials Solutions Ltd. Partnership
<b>Type of Application</b>	Application under section 37E of the Planning & Development Act, 2000 (as amended)
<b>Prescribed Bodies</b>	<ol style="list-style-type: none"><li>1. Inland Fisheries Ireland (IFI)</li><li>2. Fingal County Council (FCC)</li><li>3. Geological Survey Ireland (GSI)</li></ol>
<b>Observers</b>	<ol style="list-style-type: none"><li>1. John &amp; Mary White and Others</li><li>2. Declan White</li><li>3. Martin &amp; Miriam Moore</li><li>4. Gillian &amp; Roger Blackburn</li><li>5. Louth Environmental Group</li><li>6. Fidelma Geraghty &amp; Family</li></ol>

**Date of Site Inspection**

25<sup>th</sup> August 2023

**Inspector**

Anthony Kelly

## **Contents**

1.0 Introduction .....	4
2.0 Background.....	4
3.0 The Board’s Further Information Request.....	5
4.0 Applicant’s Response to Further Information Request.....	6
5.0 Prescribed Bodies and Observers Response to Invitation to Comment on the Provisions of the Fingal Development Plan 2023-2029 .....	9
6.0 Prescribed Bodies and Observers Responses to the Applicant's Further Information Response .....	10
7.0 Planning Assessment .....	11
7.1. Item 1.....	11
7.2. Item 2 .....	16
7.3. Item 3.....	17
7.4. Conclusion.....	17
8.0 Recommendation.....	19
9.0 Reasons and Considerations .....	19
10.0. Conditions .....	25

## 1.0 Introduction

- 1.1. This is an addendum report to the inspector’s report for ABP-314964-22, dated 14<sup>th</sup> November 2023.

- 1.2. In correspondence dated 5<sup>th</sup> April 2024, the Board, in accordance with section 37 (F)(1) of the Planning & Development Act, 2000 (as amended), required the applicant to furnish further information. Prescribed bodies and observers were also invited to make submissions on matters of relevance.
- 1.3. This report considers the submissions made by the applicant, prescribed bodies, and observers, and should be read in conjunction with the Inspector's report dated 14<sup>th</sup> November 2023.

## **2.0 Background**

- 2.1. This is an application made by Integrated Materials Solutions Ltd. Partnership for strategic infrastructure under section 37E of the Planning & Development Act, 2000 (as amended). The application is made pursuant to formal notice issued by the Board on 26th February 2020 where it determined that the proposed development would fall within the scope of section 37A (2)(a) and (b) of the Act and would constitute strategic infrastructure necessitating an application directly to the Board.
- 2.2. The proposed development comprises enhancement and expansion of the established waste and recovery operations on site for a 25-year lifetime of operation at a rate of 500,000 tonnes per annum as per the existing operation. I refer the Board to section 3 of the Inspector's report dated 14<sup>th</sup> November 2023 for a detailed description of the proposed works.

## **3.0 The Board's Further Information Request**

- 3.1. The Board sought the following further information from the applicant on 5<sup>th</sup> April 2024 in accordance with section 37 (F)(1) of the Planning & Development Act, 2000 (as amended):
  1. The proposed development as described in the public notice refers to the enhancement and expansion of the established waste and recovery operations at the site. It also refers to the proposed development consisting of expanded waste treatment activities and enhancement of the existing aggregate recovery processing on site including upgrading of the aggregate recovery operations

and additional waste recovery activities. The Board notes an existing permission F19A/0077 (Fingal County Council) that allows the continued infilling with C&D waste at a rate of 500,000 further fifteen years [sic] from the date of expiration of the existing permissions 'in order to enable the lands to be fully restored to the original ground level'. On review of the site notice and the entirety of the documentation on file, the current application before the Board appears to rely on permitted/authorised development for aggregate recovery including processing on-site and removal off-site rather than infilling the site. In this regard, the applicant is requested to provide details of any planning history, supported by documentary evidence, to demonstrate that any such existing aggregate recovery including processing on site followed by exportation off-site and/or any existing waste recovery activities, as a baseline for the current proposal, are authorised/permitted development within the meaning of the Planning Acts.

2. Provide details of anticipated waste infill and recovery volumes and heavy goods traffic movements associated with the proposed development over the intended 25 year life of the project, having regard to the nature of the proposal to change from infilling of the quarry void for restoration purposes to also include aggregate recovery including processing on site followed by exportation off-site.
3. Having regard to the adoption of a new development plan in the administrative area of Fingal since the application was lodged with the Board, the Board invites all parties to provide any commentary on matters of relevance to the proposed development by reference to changes to policy and/or any wider provisions of the Fingal Development Plan 2023-2029 that may have relevance to the Board's consideration of the application.

- 3.2. The prescribed bodies and observers who had made submissions were also written to on 5<sup>th</sup> April 2024 and invited to make a submission in relation to item 3, above. Six submissions were received from IFI, John & Mary White and Others, Declan White, Martin & Miriam Moore, Gillian & Roger Blackburn, and Louth Environmental Group.
- 3.3. At a Board meeting on 15<sup>th</sup> May 2024 the applicant's further information response of 24<sup>th</sup> April 2024 was considered. While the Board was satisfied that it does not contain significant additional information the case was deferred for consideration at a further Board meeting. It was also decided to seek submissions from parties to the application

on the further information response as per the provisions of section 37 (F)(1)(c) of the Act. These letters issued on 21<sup>st</sup> May 2024. Six further submissions were received from FCC, GSI, Martin & Miriam Moore, Declan White, Gillian & Roger Blackburn, and Fidelma Geraghty & Family.

#### **4.0 Applicant's Response to Further Information Request**

4.1. The applicant's response to the further information request of 5<sup>th</sup> April 2024 can be summarised as follows, using the subheadings contained in the response document:

- The information provided is simply a restating of information already supplied or clarification of source material for same. No aspect of the response alters in any way the findings of the EIA and AA documentation provided at application stage.

##### Planning Permission for Aggregate Processing/Recovery and Transport

- Current/proposed material being/to be exported is an aggregate material and is not classed as waste material. In 2007 the quarry ceased exporting primary aggregate and commenced exportation of secondary aggregate under F07A/0262. As such primary and secondary aggregate processing has been ongoing since the 1940s.
- F04A/0363 outlined the proposed activities on site. It detailed the number of trucks entering and leaving the site, laden and unladen, establishing the principle of two way trucks, and establishes ongoing aggregate export.
- F07A/0262 included for the introduction of a waste recovery operation at the site to supplement the permitted infilling operation. Waste recovery was described in the accompanying Environmental Impact Statement (EIS) as being 'limited to mechanical separation of potentially recyclable or re-useable metals, bricks, cut stone and broken concrete by an excavator. Screening and crushing plant is utilised to produce re-useable topsoil, subsoil for lining or capping and crushed concrete for roads'. It is stated that aggregate exports in the EIS traffic chapter refer to the recovery of secondary aggregates from the recovery operation. This is the first reference to acquiring permission for a recovery operation through processing into aggregates.

- F19A/0077 granted permission for continued operations including processing and export of material for a further 15 years. The EIAR states the operation ‘may involve the use of mobile plant/machinery to break or crush concrete ... for production of recycled aggregate’. Reference was also made to securing an end of waste decision from the EPA to generate secondary aggregates. This was granted. ‘Prior to granting this consent the EPA undertook a planning review to ensure that the aggregate processing activity had the appropriate planning consents to operate’. F19A/0077 permits all proposed developments including processing and aggregate export.

#### Material Infill and Recovery Volumes

- The proposed development responds to the dynamic needs of the waste market in the long term. Currently demand is for infilling at licenced void spaces. In light of the growing circular economy and growing market for secondary raw materials the development will respond to this need as it arises. The facility provides for the combined operation of waste infilling and recovery to secondary aggregates. The maximum allowable waste intake is 500,000 tonnes per annum. The actual annual waste intake volume is dependent on market conditions and can vary.
- The relative share of infill and recovery in any year cannot be predicted. The EIAR and NIS have undertaken an impact assessment to ensure that all aspects are addressed in full e.g. air quality, noise, and traffic. The EIAR traffic data is valid regardless of the infill/recovery operational scenario. ‘The assessment is based on the assumption that when the site is operating at full annual capacity (500,000 tonnes of waste intake per annum), the resultant traffic will equate to an average 120 trucks (or 240 traffic movements) generated onto the local road network during a typical working day’. Regardless of whether infilling or recovery operations are undertaken the waste volume and HGV movements will be unchanged from the permitted operation.
- Operational flexibility is essential to meet market demand but the applicant commits ‘to operating within the annual waste intake limit that currently applies ...’

#### Fingal County Development Plan (FDP) 2023-2029

- The application had due regard for the policies in the Draft FDP 2023-2029. The further information response analyses the various relevant policies of the FDP

2017-2023 and identifies corresponding, modified, or new policies of relevance in the 2023-2029 Plan to provide clarity on any changes of relevance.

- On-site and adjoining land use zonings are unchanged. Relevant policies for high amenity areas were renamed but their wording is unaltered. The conclusions of the Planning Report on the suitability of the site with regard to CDP zoning are unchanged.
- There are no significant changes in terms of green infrastructure.
- There are some variations in terms of waste management between the two FDPs e.g. a regional waste policy has been replaced by national policy, provide for self-sufficiency for Fingal in terms of sustainable waste recovery and disposal (objective IUO28 of FDP 2023-2029), and policy IUP22 of the current Plan provides a higher tier of policy support than objective WM04 of the previous Plan. The policies of the current Plan provide greater support for circular economy initiatives. The EIAR had referenced the draft National Waste Management Plan for a Circular Economy (NWMPCE) 2024-2030, but this is now national policy.

#### Appendix

A legal opinion was submitted in relation to item 1 of the further information request. This concludes that ‘there is no doubt that waste activities, including export of product, are authorised or permitted development under the Planning Acts’.

## **5.0 Prescribed Bodies and Observers Responses to Invitation to Comment on the Provisions of the Fingal Development Plan 2023-2029**

- 5.1. Prescribed bodies and third parties were invited to make a submission given the adoption of the FDP 2023-2029 since the application was lodged with the Board and to provide any commentary on matters of relevance to the proposed development by reference to changes to policy and/or any wider provisions of the Plan that may have relevance to the Board’s consideration of the application. Submissions were received from the following:

#### Prescribed Bodies



- 5.2. Inland Fisheries Ireland – The submission is the same as that made on foot of the original planning application, as per paragraph 6.2.7 of my original report. No comment is made relating to the FDP 2023-2029 or any changes to policy therein.

#### Observers

- 5.3. John & Mary White and Others – Similar issues are raised to those contained in the submission received on the original planning application. No comment is made relating to the FDP 2023-2029 or any changes to policy therein.
- 5.4. Declan White – Similar issues are raised to those contained in the submission received on the original planning application. No comment is made relating to the FDP 2023-2029 or any changes to policy therein.
- 5.5. Martin & Miriam Moore – Similar issues are raised to those contained in the submission received on the original planning application. No comment is made relating to the FDP 2023-2029 or any changes to policy therein.
- 5.6. Gillian & Roger Blackburn – The submission cites more issues of concern than were referenced in the submission on the initial planning application, including that waste treatment and recovery should be dealt with as close as possible to its origin. Material should not be transported from the west and south of the country as there are alternative facilities in those areas. Notwithstanding, the issues raised have generally been previously cited in submissions as per section 6.3 of my original report. No comment is made relating to the FDP 2023-2029 or any changes to policy therein.
- 5.7. Louth Environmental Group – The submission cites concern in relation to impact on local biodiversity and habitats, the unforeseen effects on drainage patterns, soil stability etc. of the revised restoration contours and the additional volumes of material, and considers that additional public consultation is required. Other issues referenced have largely been previously raised as per section 6.3 of my original report. While the FDP 2023-2029 is mentioned in the submission it does not specifically reference any particular policy or objective apart from commenting that the focus on waste treatment and recovery operations appears to contravene the sustainability goals set forth in the Plan which emphasises reducing waste generation and promoting recycling and reuse within the framework of a circular economy.

## **6.0 Prescribed Bodies and Observers Responses to the Applicant's Further Information Response**

- 6.1. In addition to being invited to comment on the new development plan as per the previous section, prescribed bodies and third parties were subsequently invited to make a submission in relation to the applicant's further information response. Submissions were received from the following:

### Prescribed Bodies

Fingal Co. Co. – No further comments to make.

Geological Survey Ireland – No further comments or observations to make.

### Observers

- 6.2. Martin & Miriam Moore – Objection to the intake of hazardous waste and HGV movements.
- 6.3. Declan White – The content of the submission is similar to that submitted in response to the previous invitation to comment.
- 6.4. Gillian & Roger Blackburn – A number of issues of concern are cited, mainly relating to the number of HGVs, and these are generally set out in section 6.3 of my original report.
- 6.5. Fidelma Geraghty & Family – There has been no further consultation with the community, questions regarding the application have not been answered, and the applicant has not produced planning permission for the specifics of the application.

## **7.0 Planning Assessment**

### **7.1. Item 1**

- 7.1.1. Item 1 of the further information request sought planning history details to demonstrate that existing aggregate recovery including processing on-site followed by exportation off-site and/or any waste recovery activities are authorised within the meaning of the Planning Acts.

- 7.1.2. Quarrying activity was established on site prior to the commencement of the planning code in 1963. Quarrying activity, by its nature, involves extraction of virgin material on-site, processing of same if required, and export of the material off-site to its destination. I fully accept that this activity occurred at this location for decades. However, one of the primary issues with this application is the *importation* of material onto the site, its processing/recovery, and the subsequent exportation of same.
- 7.1.3. I acknowledge that there is/will be a material surplus on site of approx. 299,420m<sup>3</sup> as per section 5.6.6 of the EIAR and as referenced in my previous report. Section 5.6.6 states, inter alia, 'This material may be used in landscaping on site, processed in the aggregate recovery plant or exported off site as engineering material for use other construction sites under agreement with the EPA'. As per the previous report I do not have any issue with the export of existing on-site material for this purpose. However, I do not consider that this can reasonably be used as a precedent or as an example that there is a planning consent for export of recovered material off-site.
- 7.1.4. The applicant states that the site is designated as nationally important infrastructure in the NWMPCE 2024-2030 which was prepared by the Regional Waste Management Planning Offices. Nationally important infrastructure is of the type and scale deemed essential to maintain a functioning waste market within the state. Thresholds for same are set out in table 4-1 of volume II (Policy Responses and Actions) of the 2024-2030 Plan. The site is deemed to be nationally important infrastructure because it exceeds relevant thresholds, not because it is specifically identified as such. Integrated Materials Solutions Limited Partnership is among the facilities named in appendix 7 (Inventory of EPA Authorised Waste Sites) of volume IV (Supporting Documentation) of the Plan. The licence no. is W0129, the 'class of activity' is given as grading and crushing concrete, and the figure for '2020 waste accepted on site' is 541,987<sup>1</sup>.
- 7.1.5. The further information response cover letter states that large scale quarrying/export of primary aggregate ceased in 2007 and commenced exportation of secondary aggregate under F07A/0262.
- F04A/0363*
- 7.1.6. The public notice stated that the application was to infill the quarry void with inert material. The applicant states that proposed activities on site included both 'Ongoing

---

<sup>1</sup> I assume the figure is in tonnes per annum but the Plan does not specify this.

processing (including stockpiling, crushing, screening, and loading) of excavated rock and soil – in progress’ and ‘removing aggregate products for sale to markets – in progress’. I consider this related solely to on-site activity. One of the other ‘development works’ was ‘Ongoing excavating of rock and soil materials’. Elsewhere on page 17 the EIS stated ‘The restoration scheme includes continuation of the rock excavation and processing activities at the existing site, providing the infrastructure that is required for an inert landfill site ...’ Therefore quarrying was continuing on site, and it was this primary aggregate material that was being exported from site.

*F07A/0262*

- 7.1.7. The application sought to vary F04A/0363 to permit an extended area to be infilled and to permit the continued infill of the quarry at a rate of 500,000tpa, ‘so as to ensure that the quarry can be infilled and fully restored before the 2004 permission expires i.e. by 6 October 2019’. It is stated that this application included for a waste recovery operation which was ‘limited to mechanical separation of potentially recyclable or re-useable metals, bricks, cut stone and broken concrete by an excavator. Screening and crushing plant is utilised to produce re-useable topsoil for lining or capping and crushed concrete for roads’. The applicant states that the planning application/EIS for this application is not available online but that it can make these available to the Board.
- 7.1.8. It does not appear that waste recovery operations were referenced in the public notices (as per the ‘proposal description’ on the Fingal Co. Co. website for the application accessed on 4<sup>th</sup> September 2024). In addition, I do not consider that the applicant has demonstrated that the ‘waste recovery infrastructure’ referenced is not related to soils or crushed concrete for use on site as cell lining/capping or for the ever-changing internal site roads.
- 7.1.9. The 2007 permission was a variation to the 2004 permission which had a finite lifespan. Therefore, it appears that permission for the waste recovery operation, even if it related to off-site exportation, would cease upon expiration of the 2004 and 2007 permissions.

*F19A/0077*

- 7.1.10. The public notices cited the proposed development as continued infilling of the former quarry with construction and demolition waste for a further 15 years in order to enable the lands to be fully restored to the original ground level. There is no specific reference in the public notice to any waste recovery infrastructure or operations and reference

to this type of activity is noticeably absent in the early chapters of the EIAR e.g. Introduction, Background and Need for the Development, and Characteristics of the Proposed Development. It is unclear where in volume II of the EIAR that the excerpt referenced in section 1.1.3 of the applicant's further information response cover letter is to be found<sup>2</sup> but it does not read as explicitly relating to production of recycled aggregate for export off-site.

7.1.11. A processing building was one of the infrastructural elements included in the public notice. This was described as a 'A new portal frame steel building for dry mechanical processing of inert wastes ... with ancillary hard standing and yard space' in the EIAR. Further information was sought, among other issues, in relation to this building. The planning authority decided that this building should only be used for dry waste processing. It is clear in the planning authority report<sup>3</sup> and decision that the use of this building for processing of imported material for subsequent export off-site was not appropriate and condition 3, which stated that no recycling activities were authorised, reflects this. The applicant's legal opinion states that 'Condition no. 3 to the 2020 permission does not prevent waste processing, or export of product'. However, I consider that FCC's intent in relation to this condition is clear, as per footnote 3. If export of recycled product from the site was not a concern to the planning authority the fact that a building on a quarry floor might be used to facilitate that purpose would not be likely to be an issue of concern.

7.1.12. It is stated that section 13.4.4 of volume II of the EIAR presents existing traffic from the site, including both waste imports and aggregate exports. However, the section only shows the number of trucks arriving per month and per day. It does not show the number of trucks leaving the site (though I assume they were the same) and it does not show, for example, the weights or average weights of any trucks leaving the site which would indicate that trucks are leaving the site laden.

---

<sup>2</sup> In addition, the second excerpt in section 1.1.3 (EPA/End of Waste) is not found in section 5.5.3 of volume II of the EIAR as stated.

<sup>3</sup> Pages 19-20 of the second FCC Planning Report states 'It is noted that a third party submission has queried the purpose of this structure. The applicant has indicated that it will be used for dry waste processing including crushing and screening. Reference has been made to the potential for use for recycling of aggregate material for the market in the event that the EPA determines that certain grades of recycled aggregate have ceased to be waste. No information has been submitted in relation to the process associated with this recycling operation or impacts arising from same. In the absence of this, it would not be appropriate to permit such usage and the building should therefore only be used for dry waste processing'.

7.1.13. The applicant states that prior to prior to granting an end of waste consent relating to recycled aggregates the EPA 'undertook a planning review to ensure that the aggregate processing activity had the appropriate planning consents to operate'. No documentation in relation to this has been submitted with the application.

#### *Assessment*

7.1.14. The subject site operated as a quarry for a number of decades. The purpose of a quarry is the extraction of virgin material for use in the wider area so, obviously, export of product is fundamental to quarry operations. It appears that combined landfilling of the quarry void and additional quarrying activities was carried out between approximately 1988 and the mid-2000's. Permissions were granted in 2004, 2007, and 2020, and earlier, for landfilling. Though the applicant states that waste recovery operations were permitted in the 2007 and 2020 applications the public notices for these two permissions do not refer to waste recovery operations i.e. recovery of aggregates for export from the site of materials imported into the site.

7.1.15. While the applicant's position is set out in the further information response, I do not consider that it contains clear, compelling, and unambiguous evidence that there is a baseline planning permission for an operation that involves import of material, aggregate recovery of same including processing, and subsequent export of same. The issue is the absence of permission for this specific activity and the impact of it on the receiving environment.

7.1.16. Notwithstanding the provisions of the previous paragraph, broadly speaking, the planning framework supports development of the type proposed i.e. development contributing to the circular economy. However, the subject site is located in a high amenity area in north Co. Dublin. While I acknowledge that there are certain benefits of locating the development in a former quarry/current landfill, Appendix 9 (Guidance for Siting Waste Management Facilities) of the NWMPCE 2024-2030 identifies areas of high amenity among the designations that may preclude or curtail development (section 2.5).

7.1.17. Section 1.1.5 of the applicant's response contains an excerpt from the Chief Executive's Response to the applicant's request to rezone the site from high amenity to GE (General Employment) during the draft public consultation for the FDP 2023-

2029<sup>4</sup>. The response, as per the Chief Executive's Report, states, 'The HA zoned lands subject to the rezoning request ... consists of an existing quarry ... Infilling at the quarry commenced in 1988 and the quarry is currently in the process of being filled. Quarrying at the site ceased in 2007. The subject lands are zoned HA-High Amenity, and it is requested that these are rezoned GE, to allow the existing waste management facility to expand and diversify and to cater for circular economy initiatives. There is currently an extant permission under planning reference F19A/0077 for the continued filling of the former quarry for a further 15-year period with construction and demolition waste material ... Having regard to the history of the lands, the current use at the subject site is considered acceptable at this HA location as it will facilitate the restoration of a spent quarry to its original levels/appearance and is considered to accord with the 'HA' zoning objective and vision'.

- 7.1.18. This excerpt refers to the quarry being in the process of being infilled, a request that the zoning is altered to diversify and cater for circular economy initiatives (implying that they are not currently undertaken), a reference to the 2020 permission permitting continued infilling, and the restoration of a spent quarry. It makes no reference to any ongoing waste recovery operations.
- 7.1.19. The current application refers to, inter alia, the enhancement and expansion of existing waste and recovery operations. As stated, I do not consider that it has been adequately established that there is an extant permission under the planning code for current recovery operations on site. Expanded waste treatment activities sought include enhanced aggregate recovery processing, manufacture of secondary materials, and additional waste recovery activities including soil/concrete batching. Even if it had been established that there was planning permission for importing material, recovery of aggregates, and export of same, it does not mean that there would be an obligation to grant permission for the enhancement and expansion of recovery operations on that basis. This is a new, standalone application and, as such, it is open to the Board to grant the development sought or refuse to grant it.

---

<sup>4</sup> Inter alia, the rezoning request, as per pages 449-450 of the Chief Executive's Report stated 'the inclusion of a specific map-based objective for a Sustainable/Circular Economy Campus is requested on the north/western section of the lands to support circular economy initiatives. Such a campus would be in line with both the national and local policy context relating to waste management and the current HA-High Amenity zoning objective is not considered appropriate for the existing approved operations on site, nor for any future enhanced Sustainable/Circular Economy opportunities and would potentially hinder the introduction of further processes that are in line with national and local policy'.

7.1.20. The applicant's response to this further information request item does not alter my position as set out in my previous report.

## **7.2. Item 2**

7.2.1. Item 2 sought detail on waste infill and recovery volumes and anticipated HGV traffic movements. This was based on the somewhat ambiguous detail in the EIAR. It appeared that the applicant was proposing to retain the 500,000tpa intake limit for landfilling purposes but it also seemed that it was proposed to import additional volumes for the purpose of waste recovery. This would result in, in theory, an open-ended overall waste intake volume and would render it practically impossible to ascertain HGV movement numbers. Notwithstanding, the applicant's response to this issue is clear and unambiguous. It is stated in the response that:

- 'The permitted (Waste Licence and Planning) maximum allowable waste intake at the site is 500,000 tonnes per annum ... the relative share of infill and recovery in any year cannot be predicted other than the requirement that the total volume of waste that may be accepted at the site cannot exceed 500,000 tonnes per annum',
- 'Chapter 13<sup>5</sup> on Traffic presents traffic data for the site operating at full capacity for the material transport to and from the site and the presented assessment is valid regardless of the infill/recovery scenario adopted to meet market demand', and,
- 'the Applicant commits to operating within the annual waste intake limit that currently applies and will be restated by the planning and licensing consents'.

7.2.2. Therefore, the applicant indicates that 500,000tpa is the maximum intake limit on site, regardless of the landfill/recovery operation breakdown<sup>6</sup>. I consider this appropriately clarifies and addresses the concerns expressed in my previous report relating to the matter of open-ended numbers of HGV movements. Should the Board decide to grant permission it may be beneficial to clarify by way of a condition that the 500,000tpa waste intake limit applies collectively to both landfilling and waste recovery operations.

---

<sup>5</sup> Of the EIAR

<sup>6</sup> Given the 541,987 '2020 waste accepted on site' figure in appendix 9 of the NWMPCE it would appear that the site may have breached its waste intake limit in 2020.



### 7.3. Item 3

- 7.3.1. The land use zonings in the current FDP 2023-2029 are the same as those in the FDP 2017-2023. The circular economy is supported and promoted under the current Plan as it was under the previous Plan. I do not consider that there is any substantial change in policies or objectives in the current Plan that render it notably different from the Plan under which the application was submitted, in so far as it relates to the type of development subject of this application.

### 7.4. Conclusion

- 7.4.1. Having regard to the previous three subsections I conclude that:
- there is no clear, compelling, and unambiguous evidence that there is a baseline planning permission for a waste recovery operation on site involving the import of material, aggregate recovery of same including processing, and subsequent export,
  - the concern relating to overall waste volume intake and associated HGV traffic movements has been clarified and is acceptable, and,
  - there has been no change in the FDP 2023-2029 that may have particular relevance to the Board's consideration of the application.
- 7.4.2. Even if the Board accepts that there is an extant planning permission basis for waste recovery on site, this is a stand alone planning application and there would be no obligation to grant a further permission for same. It is proposed to significantly enhance and expand existing waste recovery operations with landfilling comprising 20% and recovery comprising 80%. The rate of landfilling, which has been the stated aim of planning permissions since 1988, would be further slowed.
- 7.4.3. I acknowledge that there are conflicting issues with this application. There is the policy framework which supports and encourages the circular economy and there are obvious reasons why an existing quarry/landfill void location would be a suitable location. However, there is also the fact that landfilling has been the stated aim on site since 1988 and there has only been limited success on this regard, the continuing impact to property in the area, and, crucially, the zoning objective<sup>7</sup>. Landfilling would

---

<sup>7</sup> 'High Amenity – to protect and enhance high amenity areas'.

restore ground levels. Permitting the waste recovery operations would further prolong heavy industrial uses in this high amenity rural area.

- 7.4.4. I note that objective ZO3 of the FDP 2023-2029 states that it is an objective to generally permit the reasonable intensification of non-conforming uses 'subject to normal planning criteria'. However, for the reasons set out in the previous paragraph and in my original report I do not consider the intensification sought in terms of waste recovery to be appropriate.
- 7.4.5. This addendum should be read in conjunction with my original report.
- 7.4.6. In conclusion, having regard to the applicant's response to the further information request, and the additional submissions from third parties and prescribed bodies, I consider that a split-decision as recommended in my previous report remains the appropriate recommendation.

## **8.0 Recommendation**

- 8.1. I refer to the previous Inspector's Report and recommendation on this application dated 14<sup>th</sup> November 2023. Having regard to the additional submissions received I am satisfied that all matters have been adequately addressed and no additional conditions are required and no significant change to my recommendation arises.
- 8.2. I recommend that permission is granted for the continued landfilling of the quarry void with a broadening of waste type intake and that permission is refused for the expanded waste treatment activities.

## **9.0 Reasons and Considerations**

### **1. Refuse Permission**

That permission be refused for the following elements of the development:

- Expanded waste treatment activities including:
  - Enhancement of the existing aggregate recovery processing on site which includes upgrading the aggregate recovery operations which produces low carbon, recovered sands and aggregates from various granular wastes by

removing residues and other trace contaminants and separating the resulting aggregates into various size fractions;

- Manufacture of secondary materials including enhanced soils and low-energy bound materials (e.g. concrete); and
- Additional waste recovery activities including soil/concrete batching and blending.
- Repurposing of an existing storage structure on site as a testing laboratory unit for the research, development and testing of recovered materials

For the reason set out below.

1. The site is in an area zoned 'HA – High Amenity' in the Fingal Development Plan 2023-2029 and it has a zoning objective to 'Protect and enhance high amenity areas'. The 'vision' of this zoning objective is 'Protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place'.

It has not been adequately demonstrated that there is planning permission in place for material to be imported onto the site, processed, and then exported from the site. Notwithstanding, the proposed activity would result in additional heavy industry in this high amenity area that would further prolong the stated aim of this and previous applications to restore the site to natural ground levels.

Therefore, the continued or enhanced use of the site for carrying out this type of activity would materially contravene the zoning objective of the site as set out in the Fingal Development Plan 2023-2029, would seriously injure the amenities, or depreciate the value, of property in the vicinity, and would be contrary to the proper planning and sustainable development of the area.

## **2. Grant Permission**

That permission be granted for the following:

- Broader waste acceptance types to include non-biodegradable, non-hazardous and inert wastes generated by a range of sectors (construction, commercial, industrial and waste processing);
- Development and re-profiling of the landfill void to accommodate specially engineered landfill cells for non-hazardous wastes in addition to the existing engineered inert cells;
- A leachate management system including a leachate collection system and a set of twin 532m<sup>3</sup> storage tanks prior to removal from site by tanker for treatment off-site at a suitably licensed wastewater treatment plant with provision for a future on-site leachate treatment facility;
- Surface water management infrastructure for the landfill to capture, attenuate and treat storm water prior to discharge;
- A mobile enclosure for the maturation of Incinerator Bottom Ash (IBA);
- An internal un-paved road network serving the deposition areas from the reception area which will be modified throughout the development phasing;
- Relocation of the existing artificial Peregrine Falcon nesting box to a proposed elevated pole-mounted location to the south west of the site;
- Restoration of the site to natural ground levels; and.
- All ancillary site works and landscaping

for the reasons and considerations and subject to the conditions set out below.

In coming to its decision the Board has had regard to the following:

- (a) The nature, scale, and extent of the proposed development,
- (b) The provisions of the Project Ireland 2040 National Planning Framework,
- (c) The provisions of the Climate Action Plan 2024,
- (d) The provisions of the Eastern and Midland Regional Assembly Regional Spatial & Economic Strategy (RSES) 2019-2031,
- (e) The provisions of the National Waste Management Plan for a Circular Economy 2024-2030,

- (f) The provisions of the Fingal Development Plan 2023-2029,
- (g) The documentation submitted with the planning application, such as the Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS), plus the applicant's response to submissions,
- (h) The submissions and observations received on file including from the planning authority, prescribed bodies, and third parties,
- (i) The applicant's response to the Board's further information request and the submissions from prescribed bodies and third parties associated with same,
- (j) The likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects on European sites,
- (k) The planning history of the site, and,
- (l) The reports of the Inspector.

### **Appropriate Assessment: Stage 1**

The Board agreed with and adopted the screening assessment and conclusions carried out in the Inspector's report that the only European sites in respect of which the proposed development has the potential to have a significant effect are Rogerstown Estuary SAC (site code 000208) and Rogerstown Estuary SPA (site code 004015).

### **Appropriate Assessment: Stage 2**

The Board considered the Natura Impact Statement (NIS) and associated documentation submitted with the application including the applicant's response to submissions, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an Appropriate Assessment of the implications of the proposed development on the two European sites: Rogerstown Estuary SAC (site code 000208) and Rogerstown Estuary SPA (site code 004015), in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the Appropriate Assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and,
- (c) the conservation objectives for the European sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European sites, in view of the sites' conservation objectives and there is no reasonable scientific doubt as to the absence of such effects.

### **Environmental Impact Assessment**

The Board completed an Environmental Impact Assessment of the proposed development taking account of:

- (a) the nature, scale, location, and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions received from the applicant, planning authority, prescribed bodies, and observers/submitters in the course of the application, and,
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development, and identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application.

### **Reasoned conclusion on the significant effects**

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated where relevant, as follows:

- Soils, Geology, and Hydrogeology – Hydrogeological concerns were the primary refusal reason for the EPA licence W0129-03 after planning permission had been granted by the Board under PL06F.PA0018 for an integrated waste management facility. Substantial investigative studies carried out since the refusal have demonstrated that there would be no undue adverse impact on the public water supply or the underlying aquifer.
- Landscape and Visual Amenity – The potential for impacts on landscape and visual amenity during the construction and operational stages are relatively limited. Once the site operations are finished and the site fully capped and restored to a rural use there would be a positive, beneficial impact on the landscape and visual amenity of the area.
- Noise and Vibration – Noise specifically from the on-site operations would not have any undue adverse impact on the residential amenity of properties in the area.
- Biodiversity – It is acknowledged that adverse effects on peregrine falcons cannot all be mitigated. Conflicting objectives of maintenance of the peregrine habitat and infilling the quarry void cannot both be achieved at this location. However, appropriate mitigation in relation to this species is proposed.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed as set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects of the proposed continuation and enhancement of the current waste acceptance / landfilling development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Overall the Board is satisfied that the proposed development would not have any unacceptable effects on the environment.

## **Proper Planning and Sustainable Development**

The Board considered that the continuation and enhancement of the current waste acceptance / landfilling development, subject to compliance with the conditions set out below, would be in accordance with national, regional, and local planning policy including the relevant provisions of the Fingal Development Plan 2023-2029, would be acceptable in terms of impact on the visual amenities and landscape character of the area given the objective of the development to restore the site to natural ground levels, which would also be consistent with the 'high amenity' zoning objective of the area within which the site is located, would not seriously injure the amenities of properties in the vicinity, would not be prejudicial to public health, would not pose a risk to water quality or affect the natural or built heritage of the area, would not adversely impact the road network in the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. This grant of permission relates to the development described in the application documentation received by the Board on 26th October 2022 comprising:
  - Broader waste acceptance types to include non-biodegradable, non-hazardous and inert wastes generated by a range of sectors (construction, commercial, industrial and waste processing);
  - Development and re-profiling of the landfill void to accommodate specially engineered landfill cells for non-hazardous wastes in addition to the existing engineered inert cells;
  - A leachate management system including a leachate collection system and a set of twin 532m<sup>3</sup> storage tanks prior to removal from site by tanker for treatment off-site at a suitably licensed wastewater treatment plant with provision for a future on-site leachate treatment facility;
  - Surface water management infrastructure for the landfill to capture, attenuate and treat storm water prior to discharge;



- A mobile enclosure for the maturation of Incinerator Bottom Ash (IBA);
- An internal un-paved road network serving the deposition areas from the reception area which will be modified throughout the development phasing;
- Relocation of the existing artificial Peregrine Falcon nesting box to a proposed elevated pole-mounted location to the south west of the site;
- Restoration of the site to natural ground levels; and.
- All ancillary site works and landscaping.

For clarity, this grant of permission does not include:

- Expanded waste treatment activities including:
  - Enhancement of the existing aggregate recovery processing on site which includes upgrading the aggregate recovery operations which produces low carbon, recovered sands and aggregates from various granular wastes by removing residues and other trace contaminants and separating the resulting aggregates into various size fractions;
  - Manufacture of secondary materials including enhanced soils and low-energy bound materials (e.g. concrete); and
  - Additional waste recovery activities including soil/concrete batching and blending.
- Repurposing of an existing storage structure on site as a testing laboratory unit for the research, development and testing of recovered materials.

**Reason:** In the interest of clarity.

2. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further particulars received on 9<sup>th</sup> October 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the

development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

3. The period during which the proposed development hereby permitted may be constructed shall be five years from the date of this Order.

**Reason:** In the interest of clarity.

4. The period during which the development hereby permitted may be carried out shall be 25 years from the date of this Order.

**Reason:** In the interest of clarity.

5. Prior to the commencement of any development associated with this permission, the developer shall obtain/be in receipt of an appropriate licence from the Environmental Protection Agency for the operation of the facility and the development shall operate under the terms of that licence in so far as it relates to environmental emissions and practices.

**Reason:** In the interests of the protection of the environment and the proper planning and sustainable development of the area.

6. (a) The mitigation measures and monitoring commitments identified and contained within the Environmental Impact Assessment Report and the Natura Impact Statement, and other plans and particulars submitted with the application, shall be implemented in full.

(b) Any measures or commitments stating 'should' or 'may' etc. shall be read as 'shall' or 'will' etc. unless otherwise agreed in writing with the planning authority.

**Reason:** In the interests of clarity, the protection of the environment and European sites, and the proper planning and sustainable development of the area.

7. The future on-site leachate treatment facility is not permitted under this permission. Any future on-site leachate treatment facility shall only be authorised by a separate grant of planning permission.

**Reason:** In the interests of clarity, public health, and the proper planning and sustainable development of the area.

8. (a) Incinerator bottom ash shall be accepted on-site for disposal and landfilling for a period not exceeding ten years, unless otherwise agreed in writing with the planning authority.

(b) The developer shall agree in writing with the planning authority a method that facilitates the future extraction of incinerator bottom ash from the landfill for reuse. Any processing of extracted incinerator bottom ash shall take place offsite.

**Reason:** To comply with circular economy principles, to facilitate the future re-use of incinerator bottom ash should end-of-waste be established for this material in Ireland, and in the interest of the proper planning and sustainable development of the area.

9. The annual waste intake at the facility shall be limited to a maximum of 500,000 tonnes.

**Reason:** To control the scale of the development in the interest of the amenities of the area and the proper planning and sustainable development of the area.

10. (a) Within six months of the date of grant of this Order, or as otherwise agreed in writing with the planning authority, an environmental monitoring committee shall be established. Details of the members of the committee shall be agreed in writing with the planning authority and shall include two public representatives, two officials from Fingal County Council, two members of the local community, and two representatives of the developer. The environmental monitoring committee shall monitor the development permitted by this consent and shall meet at least four times per annum or at such intervals as the environmental monitoring committee members agree.

(b) The developer shall pay a sum of money to the planning authority, either annually or in such manner as may be agreed, towards the cost of the provision

of environmental improvement and recreational or community amenities in the locality. The identification of such projects shall be decided by the planning authority having consulted with the environmental monitoring committee. The amount of the contribution and the arrangements for payment shall be agreed between the developer and the planning authority or, in default of such agreement, shall be referred to the Board for determination. The amount shall be index linked in the case of phased payment. The developer shall consult with the planning authority in this regard within six months of the date of grant of this Order, or as otherwise agreed in writing with the planning authority.

**Reason:** It is considered reasonable that the developer should contribute towards the cost of environmental, recreational, or community amenities which would constitute a substantial gain to the local community.

11. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

**Reason:** In the interests of environmental protection and orderly development.

12. (a) The site shall be restored in accordance with the plans and particulars lodged with the application. The final contours shall be as indicated on the 'Proposed Restoration Contours Sheet 1 of 9' drawing. Upon restoration the lands shall be used for agricultural / rural use purposes.

(b) All structures, hardstandings and associated areas shall be removed not later than six months from the expiration of the permission. The vehicular entrances shall be blocked up and reinstated with native hedgerow.

**Reason:** To ensure that the development shall be in accordance with the permission and to comply with the zoning objective of the area.

13. The periods of operation for the landfilling of the quarry void, including the arrival and exit of heavy goods vehicles associated with same, shall be restricted to:

- (i) Between 0700 to 1900 Mondays to Fridays and 0700 to 1700 on Saturdays, unless otherwise agreed in writing with the planning authority, and,
- (ii) No activity shall take place on Sundays or bank holidays.

**Reason:** To safeguard the amenity of property in the vicinity.

14. Only clean, uncontaminated water shall be discharged from the site to the surface water network.

**Reason:** To protect water quality and ecological habitats and in the interests of public health and the proper planning and sustainable development of the area.

15. Prior to the next peregrine falcon breeding season following the date of this Order, a Peregrine Falcon Management Plan shall be submitted to and agreed in writing with the local authority. This Plan shall include details of the usage of the site since 2019, a timeline for the provision of an artificial nest site suitable for use by peregrine falcons in or in the vicinity of the site, provision for annual monitoring of the nesting of this species in the vicinity of the site over the lifetime of the permission, and the submission of an annual report regarding the nesting performance of peregrine falcons at the end of each breeding season.

**Reason:** To conserve a species listed in Annex I of the Birds Directive (2009/147 EC) as a nesting species in the vicinity of the site.

16. 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 within six months of the grant of a revised EPA licence, if applicable, or as otherwise agreed with the planning authority. This shall include the following:

- (a) Proposals for the suppression of on-site noise.

- (b) Proposals for the on-going monitoring of sound emissions at dwellings in the vicinity.
- (c) Proposals for the suppression of dust on site.
- (d) Proposals for the bunding of fuel and lubrication storage areas and details of emergency action in the event of accidental spillage.
- (e) Details of safety measures for the land above the quarry void, to include warning signs and stock proof fencing.
- (f) Management of all landscaping.
- (g) Monitoring of ground and surface water quality, levels, and discharges.
- (h) Details of site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.

**Reason:** In order to safeguard local amenities.

17. The developer shall facilitate the preservation, recording and protection of any archaeological materials or features that may exist within the site related to the construction of the attenuation pond or the leachate holding tanks area. In this regard, the developer shall –

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the attenuation pond or the leachate holding tanks area,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

18. All loads of incinerator bottom ash (IBA) shall be covered/sheeted en route to or from the site.

**Reason:** In order to prevent dust emissions, and in the interests of amenity and traffic safety.

19. A wheel-wash facility shall be provided adjacent to the site exit, the location and details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of traffic safety and convenience, and to protect the amenities of the area.

20. The developer shall submit annually, for the lifetime of the permission, an aerial photograph which adequately enables the planning authority to assess the progress of the landfilling.

**Reason:** In order to facilitate monitoring and control of the development by the planning authority.

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged during the lifetime of the development by associated vehicles, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of traffic safety and the proper planning and sustainable development of the area

22. The developer shall pay a financial contribution of €10,000 (ten thousand euro) to the planning authority as a special contribution under Section 48(2)(c) of the

Planning & Development Act, 2000 (as amended), in respect of road signing and road lining in the vicinity of the proposed access to the site, which benefits the proposed development. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

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.

---

Anthony Kelly

Planning Inspector

5<sup>th</sup> September 2024