

Comhairle Chontae Atha Cliath Theas

Record of Executive Business and Chief Executive's Order

PR/1504/21

Reg. Reference: SD21A/0171 **Application Date:** 28-Jun-2021

Submission Type: Additional Information **Registration Date:** 21-Oct-2021

Correspondence Name and Address: Ciaran Farrell, Rowan Engineering Consultants Ltd.
Unit 14, Scurlockstown Business Park, Trim, Co. Meath

Proposed Development: Land recontouring/infilling works on C. 38,000sq.m of a folio size of C.5.3HA (allowing buffers); the volume of material to be placed on the site C.91,000m³ with an average fill level of C.3.5m above existing.

Location: Saggart, Co. Dublin

Applicant Name: Ciaran Farrell, Coffey Construction Ltd.

Application Type: Permission

(BH)

Description of Site and Surroundings

Site Description

The application site is located to the south of Saggart and west of the junction of Castle Road and Slade Road. The site currently consists of a green field and is located to the south of an existing nursing home and north of a number of residential properties. The general character of the area is rural in nature but there is a mixture of commercial, agricultural and residential properties located in the area.

Site Area

Stated as 5.11 Ha.

Proposal

The proposal consists of the following:

- Land recontouring/infilling works on C. 38,000sq.m of a folio size of C.5.3HA (allowing buffers)
- The volume of material to be placed on the site C.**91,000m³** with an average fill level of **C.3.5m above existing**

Zoning

The application site is subject to zoning objective – 'RU' - To protect and improve rural amenity and to provide for the development of agriculture.

Consultations

Department of Defence – no response received

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H.S.E. Environmental Health Officer – Additional Information
Heritage Officer – no response received
Inland Fisheries Ireland – no response received
Irish Water – no objections
Public Realm – Additional Information
Roads – No objection subject to conditions
Waste Management – no response received
Water Pollution – no response received
Water Services – Additional Information

Screening for Strategic Environmental Assessment:

Indicates overlap with the following layers:

- Rural 2016
- Protected Structures 2016 – RPS REF: 346 (Stone Bridge)
- SFRA A 2016
- SFRA B 2016

Submissions/Observations/Representations

Submission expiry date: 02/08/2021

None received.

Relevant Planning History

Application site

SD10A/0171

Permission refused for two storey dormer type dwelling and the construction of a domestic garage; the installation of a wastewater treatment plant and all ancillary site works.

SD06A/0974

Permission granted for Dormer bungalow & detached garage together with site works to form a new entrance at existing farm gates along with septic tank and percolation area.

SD21A/0159 - Similar application on site to east of application site. Applicant is also Coffey Construction Ltd. for :

Land recontouring/infilling works on c.16,000sq.m. of folio size of c.2.4ha (allowing buffers); volume of material to be placed on site is c.35,000m³ with an average fill level of c.3.5m above existing.

Further information sought 10th august 2021 as follows: (no reply yet)

1. Having regard to the nature of the proposal and the RU zoning objective of the application site, which seeks to 'protect and improve rural amenity and to provide for the development of agriculture', the applicant is requested to submit the following information: (a) Clarification on whether stone is also proposed to be deposited at the site as well as soil as there is reference within some of the supporting documents to stone but not within the description of development. This

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should include the quantity of stone proposed to be deposited. (b) What impact the proposal would have on the sites ability to support agriculture in the future and further justification for the proposal given the RU zoning objective. (c) Details of advice that the applicant has received from statutory bodies associated with agriculture on the suitability of the proposal to support agriculture following the proposed deposit of materials.

2. The applicant is requested to clarify whether the deposit of soil is connected to other sites in the area other than the application site as there are references to a site to the north-east including the former golf course associated with application ED21/0004. The applicant is also requested to clarify why the redline boundary does not include the site to the north where the water reservoir is located as connections are made within the supporting documents including the excavation of soil and truck routes. Should the redline be amended to reflect all works then it is likely that the application would have to be readvertised.

3. The Roads Department has raised concerns with the proposal from a traffic and transport perspective. Given the quantity of material proposed to be used and site context the applicant is requested to submit the following: (1) A Traffic Assessment report on the traffic generated from the proposed and current development on all local road networks which facilitate vehicular traffic associated with the proposed and current permitted development and background traffic at these locations. (2) A Geotechnical Engineer report on the stability of the proposed embankment. (3) Details associated with temporary roads at the proposed development, showing the location of site compounds/welfare facilities and pedestrian routes.

4. Water Services has raised concerns in relation to surface water and flooding. Given the quantity of material proposed to be deposited, the proximity of a water source and presence of flood zones the applicant is requested to submit the following: Surface Water (1) Water Services have concerns that the proposed development will result in an increased surface water run off rate from the site which would exacerbate flooding issues downstream. The applicant is requested to submit a report which demonstrates that surface water run off rates will not be increased from the site. (2) The applicant is requested to clarify what water pollution and silt pollution mitigation measures are implemented as part of the development. Silt fencing should also be included as part of these silt prevention measures. (3) The applicant is requested to clarify what the long term proposals are for the development. How long will the fill remain in the proposed location and will the site be reseeded with grass or reinstated in any way to its natural state? Flooding (1) The proposed development site is located within Flood Zone A according to OPW's (Office of Public Works) CFRAM maps and South Dublin County Council's Strategic Flood Risk Assessment 2016-2022. The applicant is requested to submit a site-specific flood risk assessment report with the inclusion of a justification test in compliance with OPW Flood Risk Management Guidelines for Planning Authorities. The report shall demonstrate how flood risk will not be exacerbated on the site as well as upstream and downstream of the development. Details of the measures and design features to prevent/mitigate the risk of flooding to the proposed development and to adjoining lands shall be submitted. (2) The applicant is requested to submit a map showing the location of the site and proposed infill works in relation the OPW CFRAM flood risk zones. (3) The applicant is requested to submit a drawing showing the distance between the proposed development and the top of the bank of the watercourse to the south of the site. The minimum setback distance from any works to the top of the bank of the watercourse shall be 10 metres.

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5. There are concerns about the potential visual impact on the proposal and the lack of information submitted. Given the quantity of material proposed to be deposited, the additional height, the site context and requirements of policy HCL7 of the CDP the applicant is requested to submit the following: (a) A Landscape and Visual Impact Assessment, that should have regard to the site and surrounding area, any protected views and the requirements of policy HCL7 of the CDP. (b) More detailed sections taken from a variety of positions showing the proposal in the context of the site and surrounding area.

6. There are concerns with the lack of information submitted regarding landscaping. The applicant is requested to submit a detailed proposed and existing landscaping plan to include any planting that is proposed to act as screening.

7. There are concerns with the lack of information submitted in relation to ecology given the greenfield nature of the site and the presence of the Camac River, both of which can support existing flora and fauna. Having regard to the site context and the requirements of policy HCL15 of the CDP, the applicant is requested to submit a full Ecological Impact Assessment of the site and surrounding area, to include any mitigation measures. The report should be prepared by a suitably qualified individual.

8. Given the quantity of material proposed to be deposited at the site and the site context, the applicant is requested to submit a Construction Environmental Management Plan.

SD18A/0180 - Permission granted for (1) Provision of a new 100,000m³ **covered reservoir** approximately 31,520sq.m with height above ground up to 6.7m approximately without hand railing on the roof (up to 7.9m approximately with hand railing). (2) Provision of an adjoining inlet valve house approximately 1560sq.m with height above ground up to 9.0m approximately without hand railing (approximately 10.2m with hand railing). (3) Provision of an adjoining outlet valve house approximately 575sq.m with height above ground up to 9.0m approximately without hand railing (approximately 10.2m with hand railing). (4) Provision of a new building (OCSE building) housing an ESB substation, chlorination plant and associated equipment, de-chlorination plant, a backup power generator, controls and welfare facilities; approximately 25m by 17m in plan and approximately 9.6m high to the apex. (5) 2 banded silo tanks with overall height of approximately 5.9m above ground level adjacent to the new OSEC building surrounded by a security wall. (6) Demolition of the existing buried reservoirs and redundant above ground buildings/structures. (7) New site entrance from Castle Road. (8) Landscaping and fencing works. The proposed development includes all associated site development works, hardstanding areas, provision of drainage collection systems with hydrocarbon interceptor and attenuation systems and provision of a temporary construction compound area. All necessary ancillary pipework, mechanical and electrical services, plant, instrumentation, automation and controls and equipment. All of the above is proposed on a site of approximately 13.5 hectares.

Pre-Planning Consultation

None recorded for this development.

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Relevant Policy in South Dublin County Development Plan 2016 – 2022

Section 4 Economic Development & Tourism

Policy ET9 Rural Economy

Section 7 Infrastructure & Environmental Quality

Section 7.1.0 Water Supply & Wastewater

Policy IE1 Water & Wastewater

Section 7.2.0 Surface Water & Groundwater

Policy IE2 Surface Water & Groundwater

Section 7.3.0 Flood Risk Management

Policy IE3 Flood Risk

Section 7.5.1 Waste and Resource Policy and Legislation

Policy IE5 Waste Management

Section 8 Green Infrastructure

Policy G1 Overarching

Policy G2 Green Infrastructure Network

Policy G3 Watercourse Network

Section 9 Heritage, Conservation & Landscapes

Policy HCL1 Overarching

Policy HCL2 Archaeological Heritage

Policy HCL7 Landscapes

Policy HCL12 Natura 2000 Sites

Policy HCL15 Non-Designated Areas

Section 11 Implementation

Section 11.1.1 Land Use Zoning Tables

Section 11.4.5 Traffic and Transport Assessments

Section 11.5.1 Archaeological Heritage

Section 11.5.5 Landscape

Section 11.6.1 (i) Flood Risk Assessment

Section 11.6.1 (ii) Surface Water

Section 11.6.1 (iii) Sustainable Urban Drainage System (SUDS)

Section 11.6.1 (iv) Groundwater

Section 11.6.1 (v) Rainwater Harvesting

Section 11.6.1 (vi) Water Services

Section 11.6.3 Environmental Hazard Management

Section 11.6.3 (i) Air Quality

Section 11.6.3 (ii) Noise

Section 11.6.3 (iii) Lighting

Section 11.6.5 Waste Management

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Section 11.8.1 Environmental Impact Assessment

Section 11.8.2 Appropriate Assessment

Relevant Government Guidelines

Project Ireland 2040 National Planning Framework, Government of Ireland, 2018.

Regional, Spatial & Economic Strategy 2020-2032 (RSES), Eastern & Midlands Regional Assembly (2019)

- Section 5 – Dublin Metropolitan Area Strategic Plan, in Regional, Spatial and Economic Strategy 2019 – 2031.

Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities, Department of the Environment, Heritage and Local Government, (2009).

The Planning System and Flood Risk Management - Guidelines for Planning Authorities, Department of the Environment, Heritage and Local Government & OPW, (2009).

Assessment

The main issues for assessment are the following:

- Planning history
- Zoning and Council Policy
- Residential Amenity
- Parking and Access
- Services, Drainage and the Environment
- Landscaping and Visual Impact
- Ecology and Heritage
- Environmental Impact Assessment
- Appropriate Assessment

Planning History

There is a current application under consideration SD21A/0159 by the same applicant Coffey Construction Ltd on a site to east of application site (on other side of the road) for a similar development i.e.

*Land recontouring/infilling works on c.16,000sq.m. of folio size of c.2.4ha (allowing buffers); volume of material to be placed on site is c.**35,000m3** with an average fill level of c.3.5m above existing.*

Further information was sought 10th august 2021(no reply yet).

Current application SD21A/0171 relates to

- **91,000m3** with an average fill level of C.**3.5m above existing**

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35,000 cubic metres x 1.3 = 45,500 tonnes

91,000 cubic metres x 1.3 = 118,300 tonnes

126,000 cubic metres = 163,800 tonnes

In order to convert the volume of material proposed to be infilled from cubic metres to tonnes, generally this depends on the content of the material and how dense it is which varies depending on a number of factors such as density, how tight it is packed and water content. A general and conservative estimate gives one cubic metre per 1.3 tonnes. Therefore, based on this calculation, the proposal and application to the east (SD21A/0159) would see a total quantity of 118,300 tonnes of soil, which could be even heavier depending on the condition of the soil. There are concerns about the cumulative impact of the current proposal and application SD21A/0159, given the fact that the two sites are located approximately 200m away from each other and both concern the removal of soil from the same site associated with the reservoir application. Further commentary on the requirement for an EIAR is contained in the relevant section below but there are significant concerns in relation to the potential impact on the environment, human population and road network given the quantity of material proposed to be removed and deposited.

Zoning and Council Policy

The application site is subject to zoning objective – ‘RU’ - To protect and improve rural amenity and to provide for the development of agriculture. A long-term road proposal is indicated as being located to the north of the site on the CDP index map.

The application proposes the movement of soil from a site that is currently under construction for a water reservoir to the application site. The applicant has stated that they consider that the proposal would fall under ‘Public Services’ which is permitted in principle under the RU zoning objective as ‘the infill site is adjacent to the approved Irish Water development and the generation of soil material from the project is inextricably linked to the wider plans under Irish Water’s remit’. However, the definition of ‘Public Services’ as per Schedule 5 of the CDP ‘includes all service installations necessarily required by electricity, gas, telephone, radio, telecommunications, television, drainage and other statutory undertakers’ and therefore generally refers to the actual infrastructure associated with the public service. The **proposal is to remove soil from a site that has been granted permission for a water reservoir that is currently under construction** and as such the soil is a by-product of excavation to facilitate a development that was deemed to fall under ‘Public Services’ in application SD18A/0180 rather than a Public Service itself. It is therefore considered that the soil proposed to be moved to the application site could not be considered under the definition of ‘Public Services’. There is no definition of excavated soil or anything similar in Schedule 5 of the CDP and the proposal is therefore considered to fall under ‘Other uses’ as per section 11.1.1 (iv) of the CDP. The CDP states that uses that fall under this category will be considered on a case-by-case basis in relation to conformity with the relevant policies, objectives and standards contained within the Plan, particularly in relation to the zoning objective of the subject site and its impact on the development of the County at a strategic and local level.

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The applicant has provided very limited information on the potential impact of the proposal on the ability of the fields, where the soil is proposed to be moved to, to support agriculture should permission be granted, and the proposal implemented in the future. The applicant has mentioned at the beginning of their cover letter in section 1.3 that the 'proposal would be for the benefit of agricultural land' but has not elaborated upon this statement. Given the RU zoning objective which is 'To protect and improve rural amenity and to provide for the development of agriculture' it is considered necessary for the applicant to provide more justification for the proposal and to elaborate on how the movement of soil into the existing fields would impact on the lands ability to provide suitable land for the development of agriculture. There is also reference to materials other than soil including stone within other supporting documents and further clarity on how these materials would affect the ability of the land to support agriculture is deemed necessary. This is recommended to be sought as **additional information** given the zoning objective and lack of information submitted.

Residential Amenity

Environmental Health Officers (EHO) have assessed the proposal in terms of Public Health and have provided the following comments:

The application proposes the large scale infill at the site of a civil engineering works in Saggart. The site is located in reasonably close proximity to a number of different housing developments and standalone houses due to its very large size. Noise is predicted to be a potential impact and as such a thorough noise survey is included with the application. However, in our opinion dust escape from the site during infill is another very obvious potential impact and no detail has been provided as to how dust escape will be managed on site.

EHO have requested that a site management plan indicating how dust escape from the site, as a potential impact, will be properly managed, is submitted as **additional information**. Given the site context and proposal this is considered to be reasonable.

Parking and Access

The Roads Department has assessed the proposal and provided the following comments:

Land recontouring/infilling works for Saggart water reservoir for Irish Water. An Environmental and planning report has been submitted. Details of the access and traffic management are provided but very limited. The access will be through the existing entrance from Castle Road. The traffic management will be provided when the main reservoir is constructed.

Roads have recommended conditions in relation to a Construction Traffic Management Plan and Construction & Demolition Waste Management.

Conclusion

The applicant has stated that trucks would access the site from the water reservoir site to the north-east via an existing entrance to the field. Given the volume of material proposed to be transported as well as the time of 18 months proposed to undertake the works it is considered reasonable to request

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a Traffic Assessment taking into account the proposed activities as well as the other items requested by Roads. This is recommended to be sought as **additional information**.

Services, Drainage and the Environment

Water Services have assessed the proposal and have raised concerns with surface water and flooding, with comments provided below:

Surface Water

- 1.1 Water Services have concerns that the proposed development will result in an increased surface water run off rate from the site which would exacerbate flooding issues downstream. The applicant is required to submit a report which demonstrates that surface water run off rates will not be increased from the site.
- 1.2 The applicant is required to clarify what water pollution and silt pollution mitigation measures are implemented as part of the development with respect to the Camac river to the east and north east of the site. Silt fencing shall also be included as part of these silt prevention measures.
- 1.3 The applicant is required to clarify what the long term proposals are for the development. How long will the fill remain in the proposed location and will the site be reseeded with grass or reinstated in any way to its natural state?

Flooding

- 2.1 The proposed development site is located within Flood Zone A according to OPW's (Office of Public Works) CFRAM maps and South Dublin County Council's Strategic Flood Risk Assessment 2016-2022. The applicant is required to submit a site-specific flood risk assessment report with the inclusion of a justification test in compliance with OPW Flood Risk Management Guidelines for Planning Authorities. The report shall demonstrate how flood risk will not be exacerbated on the site as well as upstream and downstream of the development. Details of the measures and design features to prevent/mitigate the risk of flooding to the proposed development and to adjoining lands shall be submitted.
- 2.2 Submit a map showing the location of the site and proposed infill works in relation to the OPW CFRAM flood risk zones.
- 2.3 The applicant is required to submit a drawing showing the distance between the proposed development and the top of the bank of the watercourse to the east of the site. The minimum setback distance from any works to the top of the bank of the watercourse shall be 10 metres. The existing 10m Riparian strip shall remain in its current state.

Conclusion

Given the volume of soil proposed to be moved into the site, the changes proposed to the landscape, the proximity of a water source and the presence of flood zones, it is recommended that the applicant address the issues raised by Water Services through the submission of **additional information**.

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Irish Water has assessed the proposal and has no objections subject to conditions.

Landscaping and Visual Impact

The Public Realm Section has assessed the proposal and raised significant concerns with the lack of an EIA submitted, the lack of a Construction and Environmental Management Plan, and the lack of information on landscape and visual impact.

Commentary on the requirement for an EIA is contained in the relevant section below. It is noted that the applicant has referred to 'proposals for new planting' within section 3.3.3 of their planning report but have not provided any details of these proposals. Given the quantity of soil that is proposed to be deposited at the site and the additional height of 3.5m that would be generated, the requirements of policy HCL7 of the CDP, the sites location within the Athgoe and Saggart Hills Landscape Character Area, the rural nature of the site and the proximity to protected views located to the south of the site, it is recommended that the applicant submits a landscaping plan, Visual Impact Assessment and more detailed sections to establish what the potential impact of the proposal would be on the landscape and surrounding area.

The applicant has referenced a Construction Environmental Management Plan within their planning report that was prepared for the water reservoir site which was assessed under application SD18A/0180. However, this report was prepared and assessed in 2018, concerns land that is outside the redline boundary of the current application site and is unclear how it relates to the current proposal and what is now proposed. Given the quantity of soil that is proposed to be moved into the site it is considered that an updated report reflecting the site and contents of the current proposal should be sought as **additional information**.

Ecology and Heritage

The proposal would see the movement of a significant amount of soil to an existing field and site adjacent to the Camac River, both of which support existing ecosystems. The applicant has submitted a Biological Water Quality Assessment of the River Camac. However, this report only gives an indication of the current water quality rather than an assessment of the potential impact the proposal would have on the water course. Given the volume of soil proposed to be moved to this location, there are concerns about the lack of information submitted in relation to ecology and the potential impact that the proposal could have. It is therefore recommended that the applicant submits a full ecological report including surveys of the land that should be carried out by a suitably qualified individual. This is recommended to be sought as **additional information**.

Given the potential for archaeological artefacts in the area it is recommended that conditions regarding monitoring are attached to any grant of permission.

Environmental Impact Assessment

The applicant has not provided any information on whether they consider that the proposal would fall under the requirements or thresholds for an EIA. Schedule 5, Part 2, Section 11 Other Projects, part (b) of the Planning and Development Regulations 2001 (as amended) states the following:

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Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.

The quantity of material that would be deposited at the site would be 91,000 cubic metres. Given the quantity proposed and the fact that the material would be a by-product from the excavation of another site, it is considered to be waste. Cubic metres concerns volume whilst tonnes concerns weight. In order to convert cubic metres to tonnes the density of the material is generally required such as whether the material is compacted or not. In this case this information has not been provided by the applicant. However, even with taking a conservative estimate that the soil is in between compacted or not this would generally be in the range of approximately 1.3 tonnes per one cubic metre. Based on this calculation the **amount of material in tonnes would be over 118,000 tonnes** which is significantly above the 25,000-tonne threshold. The **applicant has stated that works would take place over an 18-month period and therefore the annual intake of waste material would be significantly above the threshold.**

In addition to this, as previously discussed in the 'Planning History' section of this report, a similar application (SD21A/0159) was recently submitted to the east of this application and is also for the infilling of soil but with a quantity of 35,000m³. Based on the calculations above this would equate to approximately 45,500 tonnes which is again significantly above the 25,000 tonne threshold. This application is currently the subject of a request for further information. It is recommended that the applicant submits an EIA for the current application and application SD21A/159 given the proximity of both sites, the quantities of material proposed to be moved and the potential cumulative impact on the environment. This is recommended to be sought as **additional information**.

Appropriate Assessment

The applicant has provided an Appropriate Assessment Screening Report prepared by Whitehill Environmental. The report has assessed the proposal to identify whether there would be any significant impacts on designated sites and identifies six such sites within a 15km radius of the application site. The report concludes that there will be no significant negative effects upon the Natura 2000 sites either individually or in combination with other plans and projects.

Having regard to the Appropriate Assessing Screening Report, together with the nature of the development, and the distance from Natura sites, it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Conclusion

There are significant concerns with the lack of information, supporting documents and justification submitted with the application, particularly given the quantity of material proposed to be used. It is therefore recommended that the applicant submits additional information in relation to the RU zoning objective including the ability of the site to support agriculture, an EIAR given the quantities proposed and potential impact on the environment, a Traffic Assessment, Construction Traffic

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Management Plan, Construction Demolition and Waste Management Plan, a Site Management Plan, surface water and flooding, landscaping and visual impact, a Construction Environmental Management Plan, and ecology and heritage.

Recommendation

Request Additional Information.

Additional Information

Additional information was requested on 23rd August 2021, and received on 21st October 2021. The original six months deadline for return of additional information will expire on 23rd February 2021.

Further Consultations

Roads Department	Recommends Refusal.
Environmental Services	Requests Clarification of Additional Information.
Irish Water	No objection, subject to conditions.
Water Pollution	Requests Clarification of Additional Information.
Public Realm	Requests Clarification of Additional Information.

Further Submissions/Observations

None.

Relevant National and European Policy and Statutory Documents

S.I. No. 126/2011 - European Communities (Waste Directive) Regulations 2011 – in particular, Article 27 of those Regulations.

By-Product Guidance Note: A Guide to by-products and submitting a by-product notification under Article 27 of the European Communities (Waste Directive) Regulations 2011 (S.I. No. 126 of 2011), Environmental Protection Agency, May 2020.

Guidance on Soil and Stone By-Products in the Context of Article 27 of the European Communities (Waste Directive) Regulations, 2011, Version 3, Environmental Protection Agency, 2019.

Assessment of Additional Information

Item 1

There are significant concerns with the proposal given the quantity of material proposed to be deposited at the site and the potential impact on the environment and surrounding area. There are also significant concerns with the potential cumulative impact of the proposal and application SD21A/0159 which is also for the deposit of material to a site to the east of the application site, given the close proximity of both sites. The applicant is requested to have regard to Schedule 5, Part 2, Section 11 Other Projects, part (b) of the Planning and Development Regulations 2001 (as amended) and submit an Environmental Impact Assessment Report. The applicant is also requested

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to include application SD21A/0159 in the scope of this report given the close proximity of both sites and the potential cumulative impact.

Response

The applicant has submitted a response to this item only. In their response, the applicant has stated their intention to move material under Article 27 of the 2011 Regulations (see Relevant Policy above), as a by-product for beneficial re-use, and not a waste material. **The applicant also states that the proposed volume of material will be 25,000m³, and not 90,000m³ as initially indicated.**

It is the intention of the applicant that all other items of additional information would be addressed after the Planning Authority makes a determination on the need, or otherwise, for an Environmental Impact Assessment of the proposed development.

Assessment

The basis of the initial decision by South Dublin County Council, was that the volume of material provided, and that being a waste material, would necessitate an Environmental Impact Assessment. The applicant now proposes that instead of an EIAR, the appropriate assessment of the proposed movement of material would be a determination under Article 27 of the regulations. This determination would be made by the Environmental Protection Agency.

Article 27 of the Regulations provides for the Environmental Protection Agency to make a determination on whether the subject material is waste or a by-product. Article 27(1) of the Regulations provides the following criteria:

- (1) A substance or object, resulting from a production process, the primary aim of which is not the production of that item, may be regarded as not being waste but as being a by-product only if the following conditions are met:
 - (a) further use of the substance or object is certain;
 - (b) the substance or object can be used directly without any further processing other than normal industrial practice;
 - (c) the substance or object is produced as an integral part of a production process; and
 - (d) further use is lawful in that the substance or object fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.

Under the Article 27 process, the EPA shall make a determination on the above. In relation to criterion (d), it is necessary as part of that process for the applicant to show that the re-use and re-location of the soil will be lawful, i.e. that it benefits from planning permission or is exempted from planning permission.

The Water Pollution section has recommended that the Article 27 process may be appropriate, subject to adequate and proportional monitoring of soil content both prior to and during works, and provision for silt trapping prior to the reinstatement/grassing of the lands. Slope stability should also be assured on this site, which is in close proximity to the River Camac.

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If an EIA is not being undertaken as previously sought, then the above issues need to be addressed and assessed prior to a grant of permission. These issues would likely have been the subject of an EIAR. Therefore these items should be addressed by **clarification of additional information**. Issues of slope stability are of particular concern to ensure that the site would not be the source of mud slides of a polluting and/or destructive nature, noting the increased potential for extreme weather events as a result of climate change in the very near future, and noting with concern the flash flooding events that hit Germany and other countries in the summer of 2021.

The soil should be monitored to confirm that it is not a waste product, and also to confirm that the consistency and makeup of the soil is consistent with previous assumptions. The clay content of the soil as currently proposed would make for a stable surface; however if parts of the material are less stable, or less likely to adhere to the existing surface, there is a risk of impact on the Camac River. Therefore if permission is granted, provision for monitoring should be a **condition of permission**.

Potential Outcomes if Permission is Granted

The applicant has opted not to provide an Environmental Impact Assessment Report on the basis of the composition and proposed re-use of materials. It is considered that the volume of material is somewhat irrelevant to the question of whether an EIAR is required, as the materials being taken from the source site would be of such a volume that, if considered to be waste, an EIA would likely be justified on the basis of cumulative impacts arising. It is considered appropriate to assume for the purpose of assessing potential outcomes that the material being removed from the reservoir site will either all be determined to be waste, or all be determined to be a by-product suitable for beneficial re-use.

If planning permission is granted for this site and under SD21A/0159, and the EPA determines that the material is a by-product under Article 27, then works can go ahead. The permission should include permission for, or benefit from assessment of, any mitigation measures required to deal with the potential environmental impacts of the raising of levels, etc. This would not require an EIA but such considerations would have been expected to be included in an EIA, and so a clarification of additional information may be required in respect of item 1.

If, however, planning permission is granted for this site and under SD21A/0159, and the EPA then determines that the material does not fulfil all of the criteria under Article 27, then the material must be considered waste. In this case, the applicant would need to return to the Planning Authority to obtain permission on the basis that the material is waste. The cumulative impact of permitted development under SD18A/0180, and the proposed developments under SD21A/0159, and SD21A/0171 (this application), would necessitate and require an Environmental Impact Assessment if the material were considered to be waste.

Having regard to the above likely outcomes, it is considered appropriate to **grant permission**, subject to a condition that works may only take place following a determination by the Environmental Protection Agency, that the material is a by-product under Article 27 of the 2011 regulations. Should the EPA determine otherwise, the works would require a new permission and full Environmental Impact Assessment.

Note on Criterion (a)

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Further use of the material must be certain in order to obtain a determination that the material is a by-product, and not waste. This is a consideration for the Environmental Protection Agency. The proposed development is stated to be for agricultural re-use.

Clarification of Additional Information

Prior to a grant of permission, the following issues should be addressed and/or provided for by the applicant:

- provision of a silt trap of appropriate proportions to be installed grass is reinstated, to prevent erosion of surface soils into the Camac River;
- assessment of the levels and slope of the proposed works, i.e. a Slope Suitability Assessment;
- a Method Statement and Schedule of Works detailing the stripping, removal and storage of top soil from the source site; any temporary removal and storage of top soil on the subject site; any other preliminary works on the subject site; phasing of works; ripping; removal, spreading and grading of subsoil; spreading of imported topsoil and/or respreading of existing topsoil; seeding and cultivation in phases or at the end of the project.

These matters should be the subject of a request for **clarification of additional information**.

Item 2

Having regard to the nature of the proposal and the RU zoning objective of the application site, which seeks to 'protect and improve rural amenity and to provide for the development of agriculture', the applicant is requested to submit the following information:

- (a) Clarification on whether stone is also proposed to be deposited at the site as well as soil as there is reference within some of the supporting documents to stone but not within the description of development. This should include the quantity of stone proposed to be deposited.
- (b) What impact the proposal would have on the sites ability to support agriculture in the future and further justification for the proposal given the RU zoning objective.
- (c) Details of advice that the applicant has received from statutory bodies associated with agriculture on the suitability of the proposal to support agriculture following the proposed deposit of materials.

Response

None

Assessment

The applicant has not provided a response. The applicant should address this by **clarification of additional information**.

Item 3

The Roads Department has raised concerns with the proposal from a traffic and transport perspective. Given the quantity of material proposed to be used and site context the applicant is requested to submit the following:

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- (1) A Traffic Assessment report on the traffic generated from the proposed and current development on all local road networks which facilitate vehicular traffic associated with the proposed and current permitted development and background traffic at these locations.
- (2) A Construction Traffic Management Plan
- (3) Construction & Demolition Waste Management.

Response

None

Assessment

The applicant has not provided a response. The Roads Department has recommended a refusal on this basis. The applicant should address this by **clarification of additional information**.

Item 4

Water Services has raised concerns in relation to surface water and flooding. Given the quantity of material proposed to be deposited, the proximity of a water source and presence of flood zones the applicant is requested to submit the following:

Surface Water

- 1.1 Water Services have concerns that the proposed development will result in an increased surface water run off rate from the site which would exacerbate flooding issues downstream. The applicant is required to submit a report which demonstrates that surface water run off rates will not be increased from the site.
- 1.2 The applicant is required to clarify what water pollution and silt pollution mitigation measures are implemented as part of the development with respect to the Camac river to the east and north east of the site. Silt fencing shall also be included as part of these silt prevention measures.
- 1.3 The applicant is required to clarify what the long term proposals are for the development. How long will the fill remain in the proposed location and will the site be reseeded with grass or reinstated in any way to its natural state?

Flooding

2.1 The proposed development site is located within Flood Zone A according to OPW's (Office of Public Works) CFRAM maps and South Dublin County Council's Strategic Flood Risk Assessment 2016-2022. The applicant is required to submit a site-specific flood risk assessment report with the inclusion of a justification test in compliance with OPW Flood Risk Management Guidelines for Planning Authorities. The report shall demonstrate how flood risk will not be exacerbated on the site as well as upstream and downstream of the development. Details of the measures and design features to prevent/mitigate the risk of flooding to the proposed development and to adjoining lands shall be submitted.

2.2 Submit a map showing the location of the site and proposed infill works in relation the OPW CFRAM flood risk zones.

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2.3 The applicant is required to submit a drawing showing the distance between the proposed development and the top of the bank of the watercourse to the east of the site. The minimum setback distance from any works to the top of the bank of the watercourse shall be 10 metres. The existing 10m Riparian strip shall remain in its current state.

Response

None

Assessment

The applicant has not provided a response. The Environmental Services Department has recommended a clarification of additional information. The applicant should address this by **clarification of additional information**.

Item 5

There are concerns about the potential visual impact on the proposal and the lack of information submitted. Given the quantity of material proposed to be deposited, the additional height, the site context and requirements of policy HCL7 of the CDP the applicant is requested to submit the following:

- (a) A Landscape and Visual Impact Assessment, that should have regard to the site and surrounding area, any protected views and the requirements of policy HCL7 of the CDP.
- (b) More detailed sections taken from a variety of positions showing the proposal in the context of the site and surrounding area.

Response

None

Assessment

The applicant has not provided a response. The applicant should address this by **clarification of additional information**.

Item 6

There are concerns with the lack of information submitted regarding landscaping. The applicant is requested to submit a detailed proposed and existing landscaping plan to include any planting that is proposed to act as screening.

Response

None

Assessment

The applicant has not provided a response. The Public Realm Section has proposed that an Environmental Impact Assessment Report is provided (see assessment under item 1 above). The applicant should address the above item by **clarification of additional information**.

Item 7

There are concerns with the lack of information submitted in relation to ecology given the greenfield nature of the site and the presence of the Camac River, both of which can support

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existing flora and fauna. Having regard to the site context and the requirements of policy HCL15 of the CDP, the applicant is requested to submit a full Ecological Impact Assessment of the site and surrounding area, to include any mitigation measures. The report should be prepared by a suitably qualified individual.

Response

None

Assessment

The applicant has not provided a response. The applicant should address this by **clarification of additional information**.

Item 8

Given the quantity of material proposed to be deposited at the site and the site context, the applicant is requested to submit a Construction Environmental Management Plan.

Response

None

Assessment

The applicant has not provided a response. The applicant should address this by **clarification of additional information**.

Item 9

Given the quantity of material proposed to be transport to the site and the proximity of neighbouring residential properties, there are concerns about the potential impact of dust escape from the site to the surrounding area. As no detail has been provided by the applicant as to how dust escape would be managed on site, the applicant is requested to submit a Site Management Plan that includes measures to control dust and mitigation measures.

Response

None

Assessment

The applicant has not provided a response. The applicant should address this by **clarification of additional information**.

Screening for Appropriate Assessment

Having regard to the Appropriate Assessing Screening Report provided with the original application, together with the nature of the development, and the distance from Natura sites, it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Screening for Environmental Impact Assessment

It is considered that the proposed development does not fall under the criteria laid down in Schedule 5 of the Planning and Development Regulations, 2001 as amended, subject to a determination by

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the Environmental Protection Agency that the materials constitute a by-product and not waste materials. It is considered that the development should be assessed for additional potential environmental impacts as this is the basis of the request for clarification of additional information.

Conclusion

Having regard to the applicant's response to Item 1, an Environmental Impact Assessment is not required prior to a grant of permission for re-use of by-products on the site.

The applicant has not addressed items 2 to 9 of the request for additional information.

Furthermore, the lack of an EIAR necessitates that some additional assessments are undertaken at this stage, to address certain issues. These issues would likely have been expected to be covered as part of an EIAR in relation to silt trapping, a schedule of works and method statement, assessment of the slope stability on the site, and provision of any mitigation or design measures which would mitigate against the potential impact of an extreme weather event affecting the site.

Considering the above, a request for clarification of additional information should issue.

Recommendation


I recommend that **CLARIFICATION OF ADDITIONAL INFORMATION** be requested from the applicant with regard to the following:

1. It is considered that an Article 27 process may be appropriate for establishing the nature of the material being transported. The Planning Authority may therefore grant permission at this stage to support that process. However, a number of issues which could reasonably have been expected to form part of an Environmental Impact Assessment Report, should be clarified prior to a grant of permission. The applicant is therefore requested to address and provide for the following:
 - (a) Regarding the levels, slope and reprofiling of the land, a Geotechnical Engineers Report confirming the stability of the proposed slopes on the site.
 - (b) details of any silt trapping proposed prior to completion and grassing of the lands;
 - (c) a Method Statement and Schedule of Works detailing the treatment of top soil and subsoil on the site, in particular: the stripping, removal and storage of top soil from the source site; any temporary removal and storage of top soil on the subject site; any other preliminary works on the subject site; phasing of works; ripping; removal, spreading and grading of subsoil; spreading of imported topsoil and/or respreading of existing topsoil; seeding and cultivation in phases or at the end of the project.
 - (d) the applicant is requested to demonstrate how catastrophic mud flow and land slide can be prevented following periods of exceptionally heavy rain.
2. The applicant is requested to provide responses to items 2 to 9 of the original request for Additional Information.

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REG. REF. SD21A/0171
LOCATION: Saggart, Co. Dublin



Jim Johnston,
Senior Executive Planner

ORDER: I direct that **CLARIFICATION OF ADDITIONAL INFORMATION** be requested from the applicant as set out in the above report and that notice thereof be served on the applicant.

Dated: 18/11/21



Eoin Burke, Senior Planner