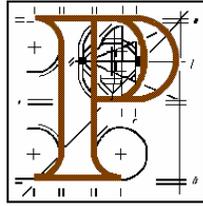


An Bord Pleanála



Inspector's Report

Development: Quarrying at Ford-de-Fyne, The Naul, Co. Meath.

Application for Review under Section 261A(6)

Planning Authority : Meath County Council

Planning Authority Quarry Ref. : QY28

Owner/Operator : Thomas & Teresa Goode
: David Carson (Deloitte & Touche)
: Goode Concrete Ltd.

PA Determination & Decision : Subsection (2)(a) & Subsection (3)(a)

Review

Party/Parties Seeking Review : An Taisce
: Kevin Geoghegan
: Geraldine Dunne & Terrence Dunne

Type of Review : Subsection (2)(a) & Subsection (3)(a)

Date of site inspection : 4th February 2013

Inspector: **Michael Dillon**

1.0 Site Location and Description

- 1.1 The quarry, the subject of this Review, with an overall site area of approximately 4.8ha, is located on or around the 100m contour. The quarry is located within the townland of Naul. It is located immediately adjacent to the county boundary with Fingal – defined by the Delvin River. The site is approximately 1.0km due west of the village of The Naul – a small crossroads settlement which has undergone recent housing expansion. Access is from country road CR-422 which runs only as far as the bridge on the Delvin River (flowing from west to east) and then becomes the L-10703 which links to Regional Road R122 within Fingal – some 400m south of the quarry site. There is a twin arch masonry bridge over the Delvin River (7.6m wide) – immediately to the south of the quarry entrance. The L-10703 is between 4.5-6m in width and is wide enough for two cars to pass with ease. The edges of this road are breaking-up and potholes are forming in places. The 80kph speed restriction applies in this area. There are no public footpaths and there is no public lighting. There are no buildings with access from the L-10703 – between the quarry entrance and the R122. The R122 between The Naul and the junction with the L-10703 has been widened and upgraded to 6m width. Sight distance at the junction of the L-10703/R122 is reasonable in both directions – somewhat restricted in the direction of The Naul by a bend in the road. The R122 links to the M1 motorway at the Balbriggan Interchange – some 5km to the east of The Naul. The CR-422 is considerably narrower to the north of the site entrance – approximately 4.0m.
- 1.2 The existing quarry entrance has unplastered concrete block wing walls and a single sliding gate. The recessed entrance is hard-core. Sight distance in either direction is restricted due to hedgerows and the alignment of the road itself. The access is located at the junction with another county road to Bodingtown and Clonalvy (CR-424). There is no wheel-wash at the entrance. There is an area of mature woodland immediately to the north of the quarry entrance which does not form part of the quarry site. There is a small roadside stream piped beneath the entrance to the quarry site. The quarry site itself is not visible from the entrance, but is visible from the R122 within Fingal. All buildings, fuel tanks and screening plant have been removed from the site. A small amount of rusting metal, concrete blocks and retaining walls remain on the site. Recolonizing vegetation is in evidence on quarry faces, spoil heaps and parts of the quarry floor. A small amount of surface water is ponding on the quarry floor. Sand martins have nested in areas of the quarry face. There is evidence of recently dug badger setts within the eastern portion of the existing quarry. The floor of the eastern section of the quarry is waterlogged – presumably the origin of the existing spring on the site which discharges to a stream on the eastern boundary of the

quarry site, and ultimately to the Delvin River. A small landslip has occurred at the eastern end of the quarry. The largest of the three lagoons (siltation ponds) on site contains some water and shows evidence of recolonizing vegetation. There was no direct outflow from this lagoon – the water level being considerably below the twin 4” Wavin pipe outfall. The other two lagoons on site are dry. All three lagoons are perched high above the level of the Delvin River, and are fenced-off from the remainder of the quarry. The Delvin River is fast-flowing in this area – the land on the other side being used for tillage. There is a large spoil mound with recolonizing vegetation (up to 10m high) along the river bank.

- 1.3 The main activity on lands surrounding the quarry is agricultural. The landscape is undulating, characterised by large fields divided by mature hedgerows and trees. There are a number of one-off houses lining roads in the vicinity – there being three houses on the CR-422 to the northwest of the site. There was once an active sand and gravel quarry on this site – discontinued at some time in the past. An auctioneers’ sign attached to the gateway to the quarry indicates that it is for sale. Fly-tipping of electric cables and tyres has occurred at the entrance to the quarry.

2.0 Planning History

The planning history of this quarry, insofar as it can be ascertained with any degree of certainty, is as follows-

Ref. 00/94 Permission refused to Gerard McDonald on 23rd March 2000, for concrete batching plant at a working quarry.

Ref. 01/4046 Permission refused to Gerard McDonald on 4th April 2001, for concrete batching plant, new entrance and relocation of ancillary offices.

Ref. SA/20073 Permission granted to Gerard McDonald on 13th September 2002, for concrete batching plant. On appeal by 3rd parties to the Board, permission was confirmed by Order of the Board dated 23rd May 2003 – Ref. **PL 17.130737**, subject to 22 no. conditions-

- Use of the premises as a concrete batching plant shall cease on or before ten years from the date of the Order.
- Operation of the batching plant shall be carried out in conjunction with the phased development and restoration of the existing quarry as identified on the site plan of 7/3/02.
- No extraction below 93m OD.
- Only sand and gravel won on site shall be used in the batching plant operation and aggregates shall not be imported onto the site.
- Restriction on hours of operation of batching plant.
- Traffic to access and egress the site only via the R122 and the county road which runs south from the site entrance to the R122.

- A record of all truck movements in and out of the site shall be kept on the site and made available for inspection by the planning authority.
- Prior to development, details of measures to ensure quarry stability, improvements to internal haul road and improvements to site entrance and boundaries to site (as indicated on drawing PP-02C) to be agreed.
- Prior to development, the developer shall agree a programme to monitor dry weather flow conditions and water quality in the Delvin River, and if it is determined by the planning authority that the abstraction of water from the river has had or is likely to have a negative impact on flow or on the water quality of the river, immediate mitigation measures shall be undertaken.
- Developer to undertake immediate mitigation of any adverse impacts to any water supplies in the area, where it is determined by the planning authority that these have been affected as a result of the proposed development.
- Deposits of dust generated not to exceed 130mg/day/sq.m – measured at site boundary.
- Noise levels at sensitive locations, to be determined by the planning authority, not to exceed an LAeqT of 55 dB(A) during the period 0800 to 2200 from Monday to Saturday and an LAeqT of 45 dB(A) at any other time, and all noise measurements to be in accordance with 1996 ISO recommendations.
- A 10m wide maintenance strip to be provided along the southern site boundary adjacent the river and a 1m high berm to define the northern boundary of the maintenance strip and to be planted with indigenous trees.
- No works of any kind to take place within the area defined on the archaeological constraint map.
- Prior to commencement of development, details for the removal of extraction and batching plant and machinery, and for the final restoration of the site, shall be agreed.

Ref. SA/20227 Permission granted to Gerard McDonald on 24th April 2003, for replacement office facilities, septic tank and upgrade of entrance at this quarry site. This development does not appear to have been carried out.

Ref. SA/40211 Permission refused to Goode Concrete Ltd. for large extension of quarry area, together with ancillary facilities, on 26th July 2004.

Ref. SA/50055 Permission refused to Goode Concrete Ltd. for extension of quarry area to northeast. On appeal by the applicant, permission was refused for 3 reasons (**PL 17.212338**) on 29th September 2005.

Ref. SA/60676 Permission refused to Goode Concrete Ltd. for extension of sand & gravel pit and construction of landscaped overburden storage mound. On appeal by 1st party to the Board (**PL 17.222547**) permission was refused on 24th September 2007, for 4 no. reasons relating to additional traffic, substandard roads, groundwater impact, and negative impact on Architectural Conservation Area of The Naul village.

Ref. SA/802633 Permission granted on 18th June 2009 to Goode Concrete Ltd. for extension of existing sand and gravel extraction area together with construction of landscaped over-burden storage mound. This extension was located to the northeast of the existing quarry site. On appeal by three no. 3rd parties to the Board (**PL 17.234255**), permission was refused on 23rd November 2009 for 4 no. reasons relating to deficiencies in relation to information supplied within the EIS, impact of HGVs on substandard roads, visual amenity, and impact on potential archaeological monument ME033-034 which is known to be in the vicinity of the site entrance.

Ref. SA/110017 This application by Goode Concrete Ltd. to extend the quarry into the adjoining field to the northeast) extraction of 2.2ha within an overall area of 4.49ha) was lodged on 13th January 2011. The application was accompanied by an EIS. A request for additional information on 8th March 2011 was not responded to. The application was deemed withdrawn on 20th October 2011.

3.0 Quarry Registration under Section 261

An application for Registration of this quarry, by Goode Concrete Ltd, was received on 12th April 2005 – Ref. QY28. It was stated that the quarry commenced operation before 1st October 1964. The total area of the quarry was stated to be 4.87ha – with an extraction area of circa 4.0ha. It was stated that screening and washing of aggregate was undertaken at the quarry, together with concrete batching. Meath County Council (by Order dated 16th April 2007), stated that the quarry had been registered in accordance with Section 261 and imposed 23 no. conditions on its continued operation. The quarry owner/operator appealed the imposition of condition no. 2 (setting a five-year life to quarrying – from the date of the order) to the Board – ref. **17.QC2082**. By Order dated 24th September 2007, the Board decided that- having regard to the pre-1964 status of the quarry, the nature and extent of the site and the other conditions attached by the planning authority; condition no. 2 should be removed. [The appeal file was the subject of inspection/report by a Board Planning Inspector].

4.0 Matters considered by Planning Authority in Assessment

Apart from the planning history and section 261 quarry registration, the following were taken into consideration by the Planning Authority in its assessment of this quarry site-

- Letters on file from Meath County Council (dated 7th November & 3rd December 2007) in relation to an audit to establish compliance with conditions imposed under Section 261.
- Companies Registration Office e-mail referring to Goode Concrete being in receivership – effective date 1st July 2011. Also – David Carson of Deloitte & Touche being appointed Receiver.
- Letter on file concerning European Regulations on Pollutant Release & Transfer Registration – dated 24th September 2008.
- Correspondence to and from the Council in relation to possible unauthorised development at quarry at The Naul – UD 09/060, UD 10/281, UD 10/263 – relating to archaeological investigations close to the entrance to the quarry.
- Correspondence from Declan Brassil & Associates (on behalf of Goode Concrete) – dated 20th October 2010, in relation to on-going restoration works at the quarry site.
- Written observation from An Taisce – dated 17th January 2012.
- Written observation from Peter Sweetman & Associates – received 19th January 2012.
- Written observation from Kevin Geoghegan, Ford-de-Fyne, received on 24th January 2012.
- Written observation from Geraldine Dunne & Terrence Dunne, Ford-de-Fyne, received on 25th January 2012.
- Extract from aquifer map for the county – showing a Locally Important Aquifer beneath QY28.
- Extract from groundwater protection map for the county – showing High Vulnerability for QY28.
- Summary Map for County Meath from Geological Survey of Ireland.
- Report from Executive Engineer for Meath County Council (dated 11th April 2012) and which includes 4 no. colour photographs (taken on 15th July 2011). This report is made on foot of a site inspection carried out on 15th July 2011. The report states that the quarry was not operational. The quarry extraction area was approximately 1.98ha, and has yielded approximately 157,500 tonnes of sand and gravel. Extraction is generally between 78-85m OD. There was no evidence of dewatering, and no surface water ponding. Parts of the quarry have become overgrown. Quarry berms to the south have been re-seeded to screen the extraction area from view on the R122. Some restoration of the quarry faces has taken place. Processing plant has recently been dismantled and removed from the site. Some processed material remains stockpiled on the site – although being colonised by vegetation. No extraction since

February 2008 – the first of many visits to this quarry. Some domestic refuse has been dumped in the quarry since it ceased operation.

- Property Ownership Research Report (dated 5th July 2012), which indicates-
 - (1) Thomas Tiernan & Maureen Tiernan were owners of Folio MH2116F on 5th November 1962.
 - (2) James Tiernan was owner of Folio MH2116F (from which Folio MH35184F was carved) on 24th July 1992.
 - (3) Gerard McDonald was owner of Folio MH35184F on 20th April 2000.
 - (4) Thomas P. Goode & Teresa Goode were owners of Folio MH35184F on 26th May 2006.
- Annotated OSI maps, and also aerial photographs dating from 2009/2010, 2004/2005, 1999/2000, 1994/1995 and 1973/1974.
- Planner's Report – dated 2nd April 2012 (accompanied by 6 no. colour photographs - dated 30th March 2012).
- Appropriate Assessment Report from Scott Cawley (dated 19th July 2012).

5.0 The Planning Authority's Determination/Decision

By Order dated 20th July 2012, Meath County Council issued a Notification with a determination under section 261A(2)(a) that environmental impact assessment was required in respect of quarrying at this site; and a decision under section 261A(3)(a) requiring the quarry owner/operator to apply for substitute consent to the Board with a remedial EIS.

6.0 Reviews to Board

Three reviews of the determination/decision of Meath County Council under section 261A(2)(a) & (3)(a) were lodged with the Board as follows-

- 6.1 Review of An Taisce, received by the Board on 8th August 2012, can be summarised in bullet point format as follows-
 - Development was carried out without authorisation after 1st February 1990.
 - The site is in proximity to The Naul, which village contains an Architectural Conservation Area (ACA).
 - The site has a potential drainage impact on the Delvin River – the estuary of which forms part of a Special Protection Area (SPA).
 - There are houses in close proximity to the quarry site.
- 6.2 Review of Kevin Geoghegan, Ford-de-Fyne, received by the Board on 9th August 2012, can be summarised in bullet point format as follows-
 - Quarry commenced after 1964, and no permission was granted.

- Requirements in relation to section 261 were not met.
- The Council has failed to issue an Enforcement Notice under section 154, requiring cessation of quarrying.
- Meath County Council granted permission for a batching plant. The batching plant has been removed and the quarry is no longer in use.
- False information was submitted to the Board in order to gain registration under section 261.
- The Meath County Development Plan 2007-2013 contains specific assessment criteria for quarries.
- Goode Concrete Ltd. changed its name to Bloomberg Developments Ltd. The company was dissolved in 2005, and applications made by it are, therefore, invalid. This includes registration under section 261 – the application for registration being made by Bloomberg Developments Ltd.
- Folio MH35184F is owned by Tom & Teresa Goode on 26th May 2006 (map and Folio details included).
- Aggregate has been imported to this quarry to feed the concrete batching plant – even though expressly forbidden by planning condition. The batching plant has been removed from the site.
- The quarry has not been operational for at least 7 years.
- The concrete batching plant has never operated – even though granted permission by Meath County Council ref. SA/20073 (PL 17.130737).
- Given that quarry was not operational during the biggest construction boom in the history of the state, it is questioned how it could be needed in the future.
- The vulnerability of the aquifer beneath this quarry is ‘high to extreme’.
- The applicant never consulted with property owners to establish the number of wells in the vicinity.
- The quality of water in the Delvin River must be protected under the EU Water Framework Directive 2000/60/EC. The river is important for sea trout and brown trout. The Eastern Regional Fisheries Board has expressed concern in the past in relation to impacts on the river.
- It is not clear what relationship exists between the quarry and a floodplain to the west.
- Noise, dust and vibration cause nuisance to nearby residents.
- Traffic from this quarry seriously impacts on local traffic and causes a traffic hazard.
- Roads in the area are inadequate in terms of width and structure to carry traffic from the quarry. Junctions and bridges are similarly inadequate.
- There are inadequate sight lines at the entrance to the quarry.

- Quarry impacts negatively on tourists visiting nearby Fourknocks megalithic tombs.
- Walkers, cyclists and equestrians on country road CR-422 are adversely affected by quarry traffic.
- Quarry impacts negatively on the visual amenity of the area.
- Permission ref. P76/545, quoted in the registration process, refers to a quarry at Moyfin in County Meath. This was not picked up by An Bord Pleanála in relation to registration appeal ref 17.QC.2082.
- This quarry does not benefit from a pre-1964 user. A black & white annotated aerial photograph from 1973 shows only a small disused gravel pit on this quarry site.
- The Council concluded that the pre-1964 use of this quarry had been abandoned. Use of the quarry was not recommenced until 1988.
- Goode Concrete Ltd. may no longer be in business, and the ownership of the quarry is unclear.
- The batching plant located on this site was 150m west of where permission had been granted for it ref. SA/20073.
- There has been a large number of planning applications and permissions on this site. It is noted that some applications were refused permission. A number of permissions granted have expired.
- The steelwork of the batching plant (installed in the wrong location) has been removed, but the concrete structure remains.

6.3.1 Review of Geraldine Dunne and Terrence P. Dunne, Ford-de-Fyne, received by the Board on 9th August 2012, can be summarised in bullet point format as follows-

- The Board is requested to reverse the subsection (3)(a) decision of the Council, and require the Council to issue a subsection (4)(a) notice.
- This quarry, although operated by a local farmer for a brief period in the 40's was used for grazing cattle until 1989, when quarrying commenced. It was operated until 2000 only – by Naul Sand & Gravel.
- The quarry is inappropriate and unsustainable in this rural setting – adjacent to the River Delvin and in close proximity to an ACA in The Naul.
- Of the ten planning applications to date on this site, most were refused by the Council or An Bord Pleanála on appeal.
- Claims by the owner/operator that the quarry was operated in the 40's, 50's, 60's, 70's and 80's are untrue.
- Initial quarrying activity in this area was in the adjoining wooded area – clearly visible on the 1910 OS map for the area. It is likely that this quarrying in adjacent land damaged a National Monument referred to in a 1957 report – ME-033-034.

- The operator provided the Board with a planning reference no. ref. P75/545 as part of an appeal against conditions imposed in the section 261 Registration process – ref. 17.QC2082. This permission relates to a quarry at Moyfin, Enfield, Co. Meath. This was an attempt to corrupt the process. The reference was quoted by the ABP Planning Inspector. Condition 2 gave the quarry a life of 5 years from the date of the Order.
- Maps and aerial photographs of the quarry have grossly misrepresented the extent of the quarry.
- Goode Concrete Ltd. purchased a field to the northeast in recent years in order to expand the worked-out quarry. Numerous attempts were made to get planning permission, but without success. The maps presented in 2005 for the Registration process only show the disused quarry.
- It is noted that the report of Mark Farrell for Meath County Council states that the extraction area covers approximately 1.98ha and has yielded approximately 157,500 tonnes of aggregate. This would equate to only 3 years of extraction relative to the 20-40 truck movements per day which was entered on the application form for registration under section 261. To state that the quarry has been operating for 60 years is, therefore, questionable.
- The concrete batching plant was erected in the wrong location. It was never used. Following pressure from Meath County Council, it was removed just prior to the last planning application to extend this quarry in 2011 – ref. SA/110017. Goode Concrete subsequently went into receivership.
- The batching plant was only put in place to try to get permission on the adjoining field to the northeast.
- The initial granting of registration of this quarry as being pre-1963 was flawed. The conditions attached to the quarry registration have been breached in many instances.
- The quarry is currently for sale.
- Quarrying at this site was abandoned between the 1940's and 1989. Whilst acknowledging that quarrying did commence pre-1964, it cannot be determined that the quarry is/was operating under pre-1964 authorisation.
- A request for AA was included by way of additional information in relation to planning application ref. SA/110017.
- As per plans submitted to the Council in 2004, restoration was to take place in three phases – to be completed by 2014.
- There is no record of either enforcement or compliance issues with this quarry.

6.3.2 The Review is accompanied by the following documents of note-

- OS map extracts to scale 1:2500 – from 1910 & 1960.
- Aerial photographs from 1973, 2003, 2005 & 2010.

- Selected details in relation to planning application ref. SA/20073.
- Details of Enforcement history in relation to the quarry site from June 2004- 2011.
- Selected details in relation to planning application ref. SA/11/0017.
- Selected details in relation to section 261 Registration process.

7.0 Observations

By letter dated 8th October 2012, the Board circulated the Reviews for comment to Peter Sweetman & Associates, agent on behalf of The Swans & The Snails Ltd., 14 Postnet, 115 Lower Rathmines Road, Dublin 6. This decision of the Board to circulate the Reviews arose from the fact that the above-named party had been notified of the Determination/Decision of Meath County Council in relation to this quarry. There was no response from the party circulated by the Board on 8th October 2012.

8.0 Response Submissions

8.1 Board circulates 3 no. Reviews to Parties to Review

By letters dated 22nd August 2012, the Board circulated the 3 no. Reviews received, to Meath County Council; among the 3 no. Reviewers; and to the owners/operators of the quarry. The responses received are as follows-

8.2 Response of Thomas & Teresa Goode

The response, received by the Board on 14th September 2012, can be summarised in bullet point as follows-

- This quarry has been in use since before 1963.
- There are recent planning permissions granted in relation to this quarry – both by the Council and by An Bord Pleanála.
- As Goode Concrete Ltd. is currently in receivership, it is not possible to employ consultants.
- Goode Concrete Ltd. has invested several million euro in this quarry, and it is hoped to resume production sometime in the future.
- The Council is in favour of promoting existing quarries rather than permitting new green-field ones.
- This quarry will reduce the requirement to import aggregates into the locality from areas further afield.

8.3 Response of Meath County Council

The response of Meath County Council, received by the Board on 17th September 2012, indicated that that Council had no further comment to make in relation to the reviews.

9.0 Assessment

9.1 General Comments in Relation to Quarrying at this Site

9.1.1 The European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2011, re-introduced the definition of “mine”, “minerals” and “quarry” into the Planning Acts in section 2 of the principal act. For the purposes of the Review process of the Board, the definitions of “minerals” and “quarry” are of interest, and are set out below:-

“minerals” includes stone, slate, clay, gravel, sand and other natural deposits except peat.

“quarry” means an excavation or system of excavations made for the purpose of, or in connection with, the getting of minerals (whether in their natural state or in solution or suspension) or products of minerals, being neither a mine nor merely a well or bore-hole or a well and bore-hole combined, and shall be deemed to include-

(i) any place on the surface surrounding or adjacent to the quarry occupied together with the quarry for the storage or removal of the minerals or for the purposes of a process ancillary to the getting of minerals, including the breaking, crushing, grinding, screening, washing or dressing of such minerals but, subject thereto, does not include any place at which any manufacturing process is carried on;

(ii) any place occupied by the owner of a quarry and used for depositing refuse from it but any place so used in connection with two or more quarries, and occupied by the owner of one of them, or by the owners of any two or more in common, shall be deemed to form part of such one of those quarries as the Minister may direct;

(iii) any line or siding (not being part of a railway) serving a quarry but, if serving two or more quarries shall be deemed to form part of such one of them as the Minister may direct;

(iv) a conveyor or aerial ropeway provided for the removal from a quarry of minerals or refuse.

9.1.2 There is a substantial planning history attaching to this quarry site. Most of the applications have been either refused by Meath County Council or by the Board on appeal. Permission was granted ref. SA/20073 for a concrete batching plant on this site. On appeal to the Board (**PL 17.130737**) permission was granted on 23rd May 2003. At the time of granting permission for this batching plant, the quarry was operational. The permission was subject to 22 no. conditions. In particular, condition

no. 2 stated that use of premises for concrete batching should cease 10 years from the date of the Order – i.e. on 23rd May 2013. It has been claimed that the batching plant erected was in the wrong place, and therefore, unauthorised. The batching plant has since been removed from the site, and all that remains are two concrete retaining walls. Condition no. 5 of the permission required that only gravel aggregate won on the site was to be used in the batching operation. I would note, in the context of these conditions, that section 34(13) of the Planning and Development Act 2000 states- *‘A person shall not be entitled solely by reason of a permission under this section to carry out any development’*. This comment is made in light of claims that there is no permission for quarrying at this site, and that the quarry does not have the benefit of a pre-1964 user. Permission was granted by Meath County Council on 24th April 2003 (ref. SA/20227) for replacement office facilities, septic tank and upgrade of entrance. It would appear that this development was not carried out. A number of planning applications were subsequently submitted to extend this quarry to the northeast; all of which were either refused by the Council, refused by the Board on appeal, or deemed withdrawn – the most recent ref. SA/110017 was deemed withdrawn by Meath County Council on 20th October 2011. These applications for expansion were accompanied by Environmental Impact Statements.

- 9.1.3 Reviews have questioned the legality of ownership of this quarry at the time of Registration under Section 261 – in relation to a company which may or may not have been trading. This is not strictly relevant to the review process under Section 261A. The property search carried out by Meath County Council indicates that Thomas & Teresa Goode were owners on 26th May 2006, having purchased the quarry from Gerard McDonald. The Goodes have written to the Board to state that Goode Concrete Ltd. is in receivership. It would appear that David Carson of Deloitte & Touche is acting for the receiver.
- 9.1.4 OS map extracts to scale 1:2500 (submitted as part of the review of Geraldine & Terence Dunne) date from 1910 and 1960. The earlier map does not show any quarrying on the quarry site – but indicates what may be quarrying on the adjoining site to the west (between the quarry and the public road). The later OS map indicates a small gravel pit (disused) on the quarry site of 11.837 acres (4.8ha). The natural expansion for quarrying from this site would have been to the northwest, north and northeast, where the ground rises – what in effect subsequently happened. Aerial photography from 1974/1974 would seem to identify the small quarry area. Aerial photography from 1994/1995 would indicate that quarrying has extended to the north and to the south (where settlement lagoons have been constructed – and are still in existence). The aerial photograph from 1999/2000 indicates quarrying extending to west. Aerial photography from 2004/2005 indicates quarrying right up to the northern

boundary. Aerial photography from 2009/2010 indicates no further expansion of quarrying, and further indicates recolonizing vegetation over much of the quarry. This situation has not much altered to this day – vegetation continuing to colonise the quarry. The report of the Executive Engineer for Meath County Council states that some re-grading of slopes at quarry faces has been carried out. In this regard I note a small, recent land slippage in the northeastern part of the quarry. Reviews submitted to the Board would appear to indicate that quarrying at this site ceased, was resumed in 1988, and ceased again in 2005.

9.1.5 The quarry registration process under Section 261 of the Act, indicates an overall area of 4.87ha, and an extraction area of 4.0ha. [The Executive Engineer for Meath County Council indicated an extraction area of 1.98ha – but this based on a site inspection of July 2011). It was stated as part of the Registration process that the quarry had commenced operation prior to 1st October 1964. The decision to attach conditions to the future operation of the quarry was the subject of an appeal to the Board (ref. 17.QC2082) by the quarry operator – Goode Concrete Ltd. The Board’s inspector visited the site on 30th August 2007, and stated that there was no activity on the site on that date. The Inspector’s Report referred to planning permission received from Meath County Council ref. P76/545. It has subsequently been determined that this permission in fact relates to a quarry at Moylagh, Enfield, Co. Meath, and not to this quarry site at Ford-de-Fyne. Those seeking review are concerned that this incorrectly identified permission has coloured decisions which have been taken in relation to this quarry by the Council and by the Board. The Board’s Order in relation to this appeal clearly referred to the pre-1964 status of the quarry.

9.2 Review of Determination under Section 261A(2)(a)(i)

Whether Environmental Impact Assessment (EIA) or Determination of EIA was Required

9.2.1 Meath County Council acknowledges that quarrying did take place on this site pre-1964 – as evidenced on OS Maps. The annotation ‘Disused Gravel Pit’ on the OS 1:2500 map of 1960 is noted. It has been stated that quarrying took place on this site in the 1940’s and was not resumed until 1989. Having regard to the questions of direction, intensification and abandonment of quarrying, the Council concluded that the quarry did not have the benefit of a *bona fide* 1964 use. It would seem that there was no expansion of the quarry between 1960 and 1973/1974 (the date of the first aerial photograph of this quarry site). The issue of abandonment was considered to be of relevance in the light of the timeframe indicated above when the quarry did not appear to be in use. The Council could not determine that the quarry was operating under a pre-1964 authorisation.

This would seem to be a reasonable reading of the evidence available to the Council.

9.2.2 Having regard to aerial photography, the Council decided that quarrying took place after 1st February 1990 at this quarry site. The extent of post-1990 extraction was not clear to the Council – although it was estimated at 1.98ha. Notwithstanding this, it was clear to the Council that the extraction area was below the mandatory threshold for EIA set down in the relevant Regulations – 5ha. It was noted that the site was not visible from public roads near the entrance, but was visible from the R122 within Fingal. It was noted that there was an objective to preserve views along this road in the Fingal County Development Plan 2011, an objective also contained in the previous Development Plan 2005-2011. Dust, noise and traffic were identified as possible nuisances associated with quarrying. The proximity of The Naul Architectural Conservation area within Fingal was also noted. Having regard to the proximity of the site to the Delvin River and the scale of quarrying works, it was concluded that the requirement for EIA could not have been ruled out.

9.2.3 I note that the extraction area of this quarry was stated to be 1.98ha. I would further note that the quarry operator referred to 4ha of extraction within the Section 261 Registration process. Quarrying would appear to be completed at this quarry site. A series of siltation ponds were constructed within the quarry site. The quarry floor now drains directly to a stream on the northeastern boundary which in turn discharges to the Delvin River. The Delvin River is a salmonid river, noted for its stocks of sea trout. The extraction area is set-back from the Delvin River. The settlement ponds (two of which are now dry) are located at a considerable height above the adjacent river. It is noted that the outfall from the final settlement lagoon (still containing water) is via a pair of 4" Wavin pipes to the stream on the northeastern boundary. A large mound of spoil has been thrown up between the access lane to the quarry and the river. This mound is recolonized by vegetation. Questions have arisen in the past over the fate of a monument, included in the Record of Monuments and Places of the OPW, which is or was located in the vicinity of the entrance to this quarry site – ref. ME033-034. Reference has been made in Reviews about the impact of this quarrying on an upstream floodplain of the Delvin River. No indication has been given as to how quarrying at this quarry site might have impacted on any floodplain. The extraction area is located high above the level of the Delvin River; even the settlement lagoons are located at a much higher level than the river. The potential for land slippages at the quarry into the River Delvin has been referred to in the past. It is noted that there has been a recent small land slippage at the eastern end of the quarry. This brings into question the stability of the quarry faces.

9.2.4 Having regard to the proximity of houses to the western boundary of the quarry and the potential for noise and dust nuisance, the drainage of the quarry floor to a stream and on to the Delvin River, the discharge from the settlement lagoons to a stream and on to the Delvin River, the possibility of land slippage, the impact of quarrying on badgers in the area, and the impact quarrying might have had on archaeology in the area, it must be concluded that the necessity for EIA could not be ruled out, notwithstanding the sub-threshold nature of quarrying by reference to the EIA Regulations.

9.2.5 The Determination of Meath County Council under section 261A(2)(a)(i) (that EIA was required in respect of this quarry site) should be confirmed.

9.3 Review of Determination under Section 261A(2)(a)(ii)

Whether Appropriate Assessment (AA) was Required

9.3.1 Meath County Council sought advice from Scott Cawley Ltd. in relation to whether AA was required in relation to quarries within its administrative area. The report in relation to this quarry site is dated 19th July 2012. The Report sought to deal with the issue of ‘in-combination’ impacts having regard to other quarries in the vicinity. It was stated that the issue of ‘in-combination’ impacts presented some difficulties to those compiling the reports. There were 2 other quarries which may have been discharging to the Delvin River upstream of this quarry site. It was noted that the quarry was not operational. The Report determined that there was no hydrological link to the nearest European site – the River Nanny Estuary & Shore SPA (Site code 004158) – located some 9km to the northeast, and that there would be no likely impacts on European sites. The Delvin River discharges to the Irish Sea at Gormanstown – on the county boundary between Meath and Fingal. The planning authority accepted these conclusions, and did not require the preparation of a remedial Natura Impact Statement. I would concur with this assessment, and conclude that a remedial NIS is not required in this instance. I note that the Order issued by Meath County Council did not make any reference to AA in the Determination. As AA is not mentioned in the Determination, the Board may not be entitled to make a review in relation to AA – the review only relating to the actual determination of Meath County Council. In this case the Determination is silent in relation to AA and relates only to EIA. However, given that there are other parties to the Review, I would consider it appropriate to review all the information on which Meath County Council based its determination – both in relation to EIA and to AA.

9.3.2 The fact that Meath County Council concluded that AA was not required in respect of quarrying which took place post 26th February 1996, is acknowledged, and I would concur with this conclusion.

9.4 Review of Decision under Section 261A(3)(a)

9.4.1 Meath County Council issued a Decision pursuant to section 261A(3)(a), based on its conclusions in relation to the Determination under section 261A(2)(a). It is clear that permission does exist on this quarry for a concrete batching plant, since removed. Permission also exists for replacement office facilities, septic tank and upgraded entrance: no elements of this permission would appear to have been carried out. Maps and aerial photography would appear to indicate that quarrying took place on this site prior to 1st October 1964. The quarry was registered under the section 261 process. Arising from the conclusions reached by the Council in relation to the determination element, it followed that a subsection (3)(a) notice should issue. I would concur with the reasoning of the Council in this regard.

10.0 Recommendation

I recommend that the Board confirm the determination and decision of Meath County Council in relation to this quarry site.

A. Determination under Section 261A(2)(a)(i)

Whereas, An Bord Pleanála has determined that, in accordance with section 261A(2)(a)(i) of the Planning and Development Act 2000 (as amended), the subject quarry has:-

Carried out development after 1st February 1990 which was not authorised by a permission granted under Part IV of the Act of 1963, prior to 1st February 1990, which development would have required, regard being had to the Environmental Impact Assessment Directive, environmental impact assessment or a determination as to whether environmental impact assessment was required, but that such an assessment or determination was not carried out or made, for the Reasons and Considerations set out below.

REASONS AND CONSIDERATIONS

- (a) The extent of quarrying which has taken place at this quarry site post 1st February 1990, which, whilst not exceeding the mandatory threshold of 5ha set down in the European Communities (Environmental Impact Assessment) Regulations 1989, as amended by the European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999, could be considered to have significant effects on the environment, so as to warrant consideration in relation to sub-threshold

development, and for which no Environmental Impact Assessment was carried out.

- (b) The proximity of housing to the west of the quarry which could have been affected by noise, dust and traffic.
- (c) The location of the quarry adjacent to the Delvin River, and the potential for discharge of silted waters from the quarry floor to a stream on the northeastern boundary of the quarry, which stream flows directly into the Delvin River – a salmonid watercourse.
- (d) The potential for discharge of silted waters from the settlement lagoons via two no. 4” Wavin pipes to the stream on the northeastern boundary of the quarry, which stream flows directly into the Delvin River – a salmonid watercourse.
- (e) The potential for damage to an identified national monument - ME033-034 in close proximity to the entrance to the quarry site.
- (f) The potential for land slippages at the quarry boundaries – particularly the eastern end.
- (g) The impact of quarrying on avifauna and fauna – in particular, badgers.

B. Determination under Section 261(2)(a)(ii)

Whereas, An Bord Pleanála has determined that, in accordance with section 261A(2)(a)(ii) of the Planning and Development Act 2000 (as amended), the subject quarry has:-

Carried out development after 26th February 1997, which was not authorised by a permission granted under Part IV of the Act of 1963, prior to 26th February 1997, which development would not have required an Appropriate Assessment under the Habitats Directive, and that quarrying would not have been likely to have had significant adverse affects on the integrity of the closest European site, in the light of the conservation interests of such site, for the Reasons and Considerations set out below.

REASONS AND CONSIDERATIONS

- (a) The location of the quarry site in relation to the River Nanny Estuary & Shore SPA, the qualifying interests of the SPA, and the absence of any hydrological connectivity between the quarry site and the SPA.

C. Decision under Section 261A((3)(a))

To confirm the Decision of the Planning Authority under Section 261A(3)(a) for the Reasons and Considerations set out below.

REASONS AND CONSIDERATIONS

- (a) Quarrying at this quarry site commenced prior to 1st October 1964.
- (b) The requirements in relation to Registration under section 261 of the Act, were fulfilled in relation to this quarry site.

**Michael Dillon,
Inspectorate.**

11th February 2013.