



## Board Direction

**Ref: 17.SU0088**

The submissions on this file and the Inspector's reports were considered at a further Board meeting held on 7<sup>th</sup> March 2017. The Board decided to grant substitute consent in accordance with the reasons, considerations and conditions set out below.

### REASONS AND CONSIDERATIONS

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

- (a) the provisions of the Planning and Development Acts, 2000 to 2016, and Part XA in particular,
- (b) the "Quarries and Ancillary Activities, Guidelines for Planning Authorities", issued by the Department of the Environment, Heritage and Local Government (2004),
- (c) the policies of the planning authority as set out in the Meath County Development Plan 2013 – 2019, as varied,
- (d) the nature and scale of the development, and the time period over which a quarry has been operating at this location,
- (e) the development history of the site, including grants of permission under PL17.108993 (planning authority 97/1869) for retention and extension of quarry development of 9 ha, the extension by 10 ha of the quarry development on a 42 ha site under PL17.125751 (planning authority 00/4233), and a refusal of permission under PL17.224216 (SA/60235); each of these applications and appeals were accompanied by environmental impact statements; the grant of permission for a concrete batching plant under planning authority register reference number 01/4203, the quarry registration under QY26, and the quarry review carried out under QY26 and 17.QV0029,
- (f) the pattern of development in the area, including the separation distances to houses, the proximity to the motorway and regional road network, and the other quarries and related development in the vicinity,
- (g) the remedial environmental impact statement submitted with the application, and
- (h) the report and the opinion of the planning authority, the submissions on file, and the reports of the Inspector.

The Board was satisfied that the information before it was adequate to undertake a remedial environmental impact assessment and a screening for appropriate assessment in respect of the development.

#### *Decision not to Accept the Recommendation of the Inspector*

The Inspector raised concerns in relation to the adequacy of the information available on file to allow an environmental impact assessment to be undertaken. The Board did not concur with this view, and decided not to accept the Inspector's recommendation to refuse substitute consent, based on the analysis set out under, and shared the opinion of the planning authority on this matter.

In particular, the Board noted the Inspector's view in relation to the baseline studies supporting the remedial environmental impact statement. The Board acknowledged that the nature of remedial environmental impact assessment, and the preparation of a remedial environmental impact statement, relating to past activities, will result in some baseline studies that are recent in origin. However, the Board was not reliant on this data alone in undertaking its assessment of the effects of the past operation of the quarry. The Board was satisfied that a very substantial level of historical data was available on file in relation to the nature and scale of past operations, including the environmental impact assessment processes undertaken in relation to PL17.108993, PL17.125751 and PL17221216, the grant of permission for a concrete batching plant under planning authority register reference number 01/4203, the quarry registration under QY26, the planning enforcement history under UD 03/032, UD 05/248 and UD 05/250, and the quarry review process under QY26 and 17.QV0029. These cases also involved multiple site inspections over many years by planning officers, environment officers, local authority engineers and An Bord Pleanála Inspectors. This detailed contemporaneous historical information on the effects of the quarry operations on the environment was not assessed by the Inspector. The Board considered that the detailed information available, taken in its entirety, was sufficient to complete an environmental impact assessment. Finally, the Board considered that it was appropriate that the application for substitute consent and the remedial environmental impact assessment should encompass the quarry development as a whole, given that it was developed accordingly. The Board noted that no evidence of likely and significant environmental impacts was identified by the Inspector.

#### *Remedial Environmental Impact Assessment*

The Board considered the nature, scale and location of the development, the remedial environmental impact statement, the planning, registration, enforcement and quarry review history of the site, the submissions on file including that of the Health Service Executive, the report of the planning authority, and the reports of the Inspector. It is considered that the remedial environmental impact statement, in conjunction with the detailed historical information available on file, identifies and describes adequately the direct and indirect effects on the environment of the development that have taken place. The Board completed an environmental impact assessment in relation to the development, by itself and in cumulation with other development in the vicinity. The Board concluded that the development of the quarry did not and would not be likely to have unacceptable effects on the environment. The analysis of the main potential effects of the quarry operations, in view of the board, is set out in the Schedule to this Order.

### *Appropriate Assessment Screening*

In conducting a screening exercise for appropriate assessment, the Board considered the nature, scale and location of the development, the documentation on file generally, the planning, registration and quarry review history of the site and the submissions on file. The Board is satisfied that significant effects arise from the development were not likely to have arisen and would not be likely to in relation to European Sites, arising from the poor connectivity with such sites and the substantial separation distances involved. The Board, therefore, concurred with the assessment previously undertaken under 17.QV0029, and was satisfied that a Stage 2 Appropriate Assessment was not required.

### *Conclusions on the Proper Planning and Sustainable Development of the Area*

The Board is satisfied that, in itself and in conjunction with other development in the vicinity, and subject to compliance with the conditions set out below, the development did not and would not conflict with the provisions of the Meath County Development Plan 2013 – 2019 did not and would not seriously injure the amenities of the area or of residential property in the vicinity, did not and would not result in a risk of pollution, did not affect known archaeological features or architectural heritage, and was acceptable in terms of traffic safety and convenience. It is, therefore, considered that the development was and would be in accordance with the proper planning and sustainable development of the area.

## **CONDITIONS**

1. (a) This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála with the application, except as otherwise may be required to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority within six months of the date of this order, and the development shall be in accordance with the agreed particulars.
- (b) The grant of substitute consent relates only to past quarrying that has been undertaken as described in the documentation supporting the application, and does not authorise any structures or any future development on this site, including excavation, unless authorised by a prior grant of planning permission.

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

2. All environmental mitigation measures identified in the remedial environmental impact statement shall be implemented in full.

**Reason:** In the interests of the conservation of the environment and of the amenities of the area.

3. Within six months of the date of this order, proposals shall be submitted to and agreed in writing with the planning authority for the following:
  - (i) a programme for the monitoring of groundwater levels and of ground water quality, and
  - (ii) the provision of bunding around fuel storage tanks.

**Reason:** In the interest of the protection of the environment.

4. Implementation-stage details of the restoration of the quarry shall be submitted to and agreed in writing with the planning authority, in accordance with the following:
  - (a) the finished gradients of the quarry faces,
  - (b) appropriate provision for Sand Martins and Barn Swallows on site,
  - (c) details of secure fencing for the boundaries of the site,
  - (d) a scheme of boundary landscaping and tree planting, and control of invasive species,
  - (e) monitoring of the remediation of Taaffe's Lake,
  - (f) the control of dust emissions until such time as vegetation is naturally re-established, and
  - (g) proposals for an aftercare programme of five years.

The restoration shall be completed to the written satisfaction of the planning authority within six months of the date of this order in accordance with the agreed details, unless a grant of permission for the further development of this site is implemented.

**Reason:** In the interest of protection of the environment, landscape and public safety.

5. Unless a permission for the further development of this site is implemented, the developer shall lodge with the planning authority, within six months of the date of this Order, a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory restoration of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory restoration of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

## SCHEDULE

### Remedial Environmental Impact Assessment

The Board considered the nature, scale and location of the development, the remedial environmental impact statement, the planning, registration, enforcement and quarry review history of the site, the submissions on file including that of the Health Service Executive, the report of the planning authority, and the reports of the Inspector. It is considered that the remedial environmental impact statement, in conjunction with the detailed historical information available on file, identifies and describes adequately the direct and indirect effects on the environment of the development that have taken place. The Board completed an environmental impact assessment in relation to the development, by itself and in cumulation with other development in the vicinity. The Board concluded that the development of the quarry did not and would not be likely to have unacceptable effects on the environment. The analysis of the main likely and significant effects of the quarry operations, in view of the board, is set out below.

#### *Human Beings*

The Board is satisfied that the principal effects on human beings related to effects on residential amenity, as described under 'Noise and Vibration' below. The quarry development also had a small positive effect in terms of employment, and has provided a socio-economic benefit to a wider area. The Board accepted that the quarry is not within a high amenity area, and concluded that tourism was not and would not be affected by the development. Brú na Bóinne is further addressed under 'Cultural Heritage'. The Board is satisfied that the quarry is at a distance from settlements, and that significant effects would not have arisen in this respect from the development of the quarry.

#### *Cultural Heritage*

No recorded monuments are located within the quarry site, and neither is the quarry within the zone of archaeological influence or setting of recorded archaeological monuments. There is no evidence of any archaeological features having been removed or affected by the development.

The quarry is screened visually from Brú na Bóinne by the Redmountain ridgeline to the north of the quarry, and it is located outside of the Brú na Bóinne buffer zone. The Board is satisfied that the quarry does not affect the landscape setting of Brú na Bóinne.

No protected structures are located in proximity to the quarry, and it is considered that no effects on architectural heritage have arisen. The nearest protected structures are over 1 km away, and the quarry, which is well screened on the whole, has no material visual presence at this distance. There are no Architectural Conservation Areas within proximity, or features of industrial or vernacular heritage that might be affected by the development. A vent pipe is recorded on the National Inventory of Architectural Heritage (register number 14402701) as being of artistic and technical interest and of regional importance; it is not considered that the quarry development affects its setting given its scale, the distance, and substantial screening involved.

The Board is therefore satisfied that the development was not likely to have had and would not be likely to have unacceptable effects on cultural heritage.

#### *Noise and Vibration*

The Board is satisfied that no unacceptable noise effects are likely to have arisen as a result of the development of the quarry, due to the substantial distance of over 100 m to dwellings in the vicinity, which would provide a significant mitigation of noise. In forming this view, the Board also had regard to the noise modelling set out in Chapter 8 of the remedial environmental impact assessment (addressing past operations, because the quarry is now closed), and the results of past noise surveys. In light of the distances to sensitive receptors, the Board is also satisfied that no unacceptable vibration effects arose from blasting, and monitoring data supports this also.

The Board accepts that the heavy goods vehicle traffic associated with the development would have contributed to noise and general disturbance at dwellings on local roads.

There is evidence on file from inspections undertaken in relation to both planning and enforcement history, with regard to the operation of the quarry outside of permitted hours, and failure to adhere to the permitted haul route on occasion. The Board did not decide to refuse consent by reason of traffic noise or disturbance.

#### *Air Quality/Dust*

The Board noted the extensive history of dust monitoring at this site, which measurements were largely in compliance with requirements. Three exceedances occurred. The Board accepts, therefore, that a minor level of localised effects arose as a result of dust over that time period. However, it is also considered that, in view of the separation distances of over 100 m to sensitive receptors, including dwellings, unacceptable impacts were not likely to have arisen and are unlikely to arise in relation to dust from the quarry.

Complaints on file in relation to the use of uncovered heavy goods vehicles is noted. This may have resulted in a temporary and localised level of dust nuisance.

#### *Soils and Geology*

The Board is satisfied that the development of the quarry has resulted in the removal of soils, subsoils and limestone rock over a substantial area. This has resulted in permanent, negative, locally important effects on soils and geology. This is considered acceptable.

#### *Hydrology and Surface Water Quality*

No surface water now discharges from the quarry. Discharge has not taken place from any of the lagoons now on site, which percolate to ground. The Board is satisfied that this was and is acceptable.

The Board is also satisfied that the evidence on file is clear that quarry dewatering was previously discharged eastwards, through drainage ditches of limited capacity, and is likely to have resulted in occasional overflow into lands to the east. Complaints to this effect are noted in enforcement files. This is likely to have been principally surface water, including water diverted from Taaffe's Lake, with evidence of groundwater input to the quarry being low. Concerns were noted on file in relation to the quality of the discharge water involved. Modifications to drainage, including provision of lagoons, are likely to have prevented recurrence of flooding to the east, and such discharges no longer occur.

Extensive material is available on file in relation to the past concerns at this quarry in relation to control and discharge of water eastwards, particularly in the enforcement files; no concern was identified at that time in relation to Duleek Commons.

However, the planning history did identify uncertainty in relation to the potential for connectivity with Duleek Commons. The Board is satisfied that there is no evidence of surface waters being released southwards from the quarry towards Duleek Commons, but only eastwards in the past. The Board notes the concerns expressed under PL17.221216 in relation to surface water and Duleek Commons, but also noted that it was then proposed to discharge surface water southwards from the quarry lagoons into the Commons. While such effects might not have been negative, the matter did not arise.

Taaffe's Lake, which may have been naturally liable to flood seasonally, is stated on file to have been man made at some time in the past. The Board is satisfied that the bounds of Taaffe's Lake have been part-breached to the south at its boundary with the quarry. This is likely to have resulted Taaffe's Lake draining faster and more frequently, and the partial drying out of the lake. This matter had not been entirely clear previously. The Board did not decide to refuse consent as a result of these effects.

The absence of use of the wheelwash on some occasions was noted on the enforcement history. This resulted in localised surface water quality and traffic concerns. There is no evidence of concern on file in relation to the permitted waste water treatment system on site.

The Board concluded that significant localised effects arose in relation to the occasional flooding of lands to the east, which is not considered likely to recur. A significant effect on Taaffe's Lake has arisen; it is considered likely that this can be readily remediated. No waters currently discharge from the quarry, and as a result, no water quality concerns now arise. The Board is satisfied that the quarry as it currently stands is not likely to have any material connectivity with Duleek Commons.

#### *Hydrogeology and Groundwater Quality*

The quarry now operates below the water table; however, the limestone at the quarry is thickly bedded, with minor groundwater inflows to the quarry excavation. Pumping is principally of rainwater and surface water runoff. A public mains water supply serves the area.

The Board is satisfied that hydrogeology was not likely to have been significantly affected by the development, that no drawdown of nearby wells or water sources arose, and that there is no material groundwater connectivity with Duleek Commons. The fen nature of the Commons and underlying impermeable clay layer is also of importance in this respect. The monitoring undertaken supports this view well, including water chemistry testing, which showed the surface water and groundwater at Duleek Commons having different characteristics, which is not unexpected in a fen. The hydrogeological conceptual model set out in Figure 7.14 of the remedial impact statement is a useful illustration in this respect.

### *Landscape and Visual Impact*

As set out in the Meath County Development Plan 2013 – 2019, as varied, the general area of the quarry is identified as being within the central lowlands landscape character area and as being of moderate sensitivity. The development is not readily encompassed within the identified View and Prospects listed in Appendix 12 of the Meath County Development Plan 2013 – 2019. Locally, the landscape of the quarry is generally low intensity agricultural in character, and is not in an area designated for landscape protection. Brú na Bóinne has been addressed above. Notwithstanding the scale of the quarry, visibility of this site is relatively restricted, on the whole. There are few clear views of the quarry locally; limited views are available at greater distance. Some houses in this area are also likely to have views of the quarry, although it is generally well screened. The Board concluded that the quarry did not and does not have a significant impact on the landscape or the visual amenity of the area.

### *Flora and Fauna*

The principal concerns arising in relation to flora and fauna involve previous loss of habitat, and the effects of the development on Taaffe's Lake. The site does not have connectivity with sensitive ecological locations, as set out in the assessments of hydrology and of hydrogeology above.

The Board accepts that the habitat lost to facilitate the quarry development is likely to have been principally agricultural habitat of low ecological interest. A number of hedgerows were removed, and this would have constituted a loss of local ecological importance. The development would also have resulted in noise, disturbance and loss of habitat for wildlife, which would also be considered to be of local significance. Such habitats are widely available in the area, and this matter is not considered unacceptable. The quarry development has been beneficial in attracting Sand Martins and Barn Swallows, and it is considered reasonable that they be protected by means of condition.

The substantial loss of Taaffe's Lake has resulted in a locally-important adverse effect of local importance for flora, aquatic life, and water birds. The remediation of the lake will address this matter positively in the medium term. The Board did not decide to refuse substitute consent on this basis.

The Board concluded that unacceptable ecological effects did not result from the development of the quarry.



### *Material Assets*

The Board noted the submission of the ESB in relation to electricity infrastructure crossing the quarry site. The concerns raised related to future development, which does not apply in this case. No concerns have been expressed on file in relation to the past effects of the development on the Bord Gáis pipeline.

### *Traffic and Transport*

It is considered that the location of the quarry had benefits in terms of its proximity to the motorway and regional road network, as well as to the greater Dublin area. The Board is satisfied that the motorway and regional roads are appropriate in terms of catering for heavy goods vehicle traffic. Although the local roads in the vicinity have limited capacity to accommodate heavy goods vehicles, it is noted that these roads are not very heavily trafficked overall. The cumulative level of heavy goods vehicle traffic on the Platin road is likely to have been more substantial, although over a relatively short distance. It is likely to have also resulted in some disamenity for the occupants of dwellings on that section of the road. The Board did not consider that the effects would have been unacceptable.

In coming to this conclusion, it is noted that the scale of operation of the quarry was likely to have been significant, and traffic is estimated to have peaked at approximately 90 HGV/day (9 HGV/hour). Traffic counts undertaken in support of the remedial environmental impact statement addressed existing traffic on these roads; this reflects other traffic to be assessed in cumulation with the quarry development, including Platin. The Board also took account of the concrete batching plant permitted under planning authority register reference number 01/4203, including the detailed traffic impact assessment undertaken in respect of it. Indaver is located on the R152 regional road, and this traffic is not considered likely to have interacted with the quarry and associated traffic on the local roads that are of most concern. Other quarries in the vicinity are not considered likely to have utilised the same local roads on the whole, being located on different routes to the regional and national road network.

The complaints on the enforcement file in relation to heavy goods traffic, the hours at which they operated, and evidence that the permitted haul route was not used on occasion (i.e., likely on occasion to have travelled through Donore or Duleek villages), are noted, along with associated effects from noise and general disturbance. There is no evidence on file that this was a frequent occurrence. The Board did not decide to refuse consent for traffic reasons.

The Board also considered that cumulative heavy goods traffic would the County road leading to the R327 in terms of noise and general disturbance on a local road. The Board did not consider that substitute consent should be refused for this reason.

### *Cumulative Effects*

In light of the assessment undertaken above, the Board was satisfied that the main cumulative effects that had or have a potential to arise relate to traffic, visual impact, and the effects of noise or dust on residential amenity. The Board is satisfied that there is abundant evidence on file in relation to the effects of this quarry, and that none of it relates to cumulative hydrological effects. The Board is satisfied that significant concerns in relation to cumulative hydrogeological effects are not likely to have arisen, as a result of the absence of material hydrogeological effects from the development of this quarry. Cumulative traffic is addressed above.

The quarries and related development at Platin and Stoneyford were considered most likely to have potential to result in cumulative effects in the vicinity, and are assessed in terms of visual and residential amenity below.

The Board is satisfied that cumulative visual impact is low. The quarry is well screened. In coming to this view, the Board notes the level of visual impact arising from Platin in particular.

The Board considered the potential for cumulative residential impact to have arisen in relation to noise or dust, particularly for those residences located between the subject quarry and other quarries, and was satisfied that the separation distances involved would have provided effective mitigation against such cumulative impacts.

The Board was, therefore, satisfied that no unacceptable cumulative effects did or would arise as a result of the development.

### *In-Combination Effects*

In-combination effects have generally been addressed above. While noting the views of the Inspector in relation to restoration, it is considered that the restoration of the quarry would result in a beneficial visual impact and, in particular, would not result in any negative effects in light of water quality or in terms of flora and fauna, where natural re-vegetation takes place. It is considered that this can be satisfactorily addressed by means of condition.

## PROVISIONAL DETERMINATION OF COSTS

The Board costs in this case totalled €9,324. An application fee of €28,750 was paid. An Bord Pleanála's costs have been recovered in full. The planning authority's costs were considered to be reasonable and were awarded in full (€1,936). Accordingly, the Board determined the costs required to be paid under section 177(k)(2), provisionally, as follows:

To be paid to An Bord Pleanála as a contribution towards the costs of consideration of the application	nil
To be paid to the Planning Authority as a contribution towards the costs of consideration of the application	€1,936

### Notes:

- A. The Board noted the Inspector's initial view that the Board would be precluded from a grant of substitute consent by reason of the previous environmental impact assessment exercises undertaken by the Board. The Board did not concur with this view, and considered that this issue had previously been determined under 17.QV0029. In that case, the Board had regard to the planning history under PL17.221216, and considered that an environmental impact assessment would have been required, but that insufficient information had been available to conduct such an assessment, and that such an assessment had not otherwise been carried out. The Board was satisfied that the matter was clear. The Board order under 17.QV0029 had the effect of requiring the applicant to make an application for substitute consent, and the application was made, and accepted as valid. The Board was satisfied that, in principle, there was no impediment to a grant of substitute consent in this case.
- B. In his second report, the Inspector expressed a view that the area in respect of which the application was made for substitute consent went beyond that provided for under Section 261A of the Planning and Development Act, 2000.

In making its determination under 17.QV0029, the Board did not place a restriction on the area of the quarry in respect of which an application could be made. Neither did the planning authority make a discrimination in relation to particular areas of the quarry in undertaking its examination under QY26. In relation to Section 261A of the Planning and Development Act, 2000, as amended, both the Board and the planning authority undertook these assessments in relation to the quarry as a whole, and in relation to the area in respect of which the application for substitute consent was required to be made (incorporating also the concrete batching plant area).

The Board was satisfied that an application in respect of the whole quarry would be the most appropriate approach. The quarry was developed as a unit. This approach was followed in making the application, which An Bord Pleanála accepted as valid, and the fee paid (which is based on the quarry area) reflected this. The Board also had regard to the purpose of the quarry legislation under Sections 261A and Part XA of the Planning and Development Act, 2000, as amended, and considered that it would not accord with that purpose to fragment the assessment and consent processes for different areas of this quarry.

Board Member: \_\_\_\_\_ Date: 25<sup>th</sup> April 2017  
Fionna O' Regan