



An  
Bord  
Pleanála

## Inspector's Report PL07.249156

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<b>Development</b>	Extension to Existing Quarry.
<b>Location</b>	Knockshangarry and Knockadikeen, Loughrea, County Galway.
<b>Planning Authority</b>	Galway County Council.
<b>Planning Authority Reg. Ref.</b>	16/1632.
<b>Applicant</b>	Vincent Cannon and Company.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party -v- Refusal.
<b>Appellant</b>	Vincent Cannon and Company.
<b>Observers</b>	Bernard Pierce on behalf of Moanmore Residents Association.
<b>Date of Site Inspection</b>	8 <sup>th</sup> November, 2017.
<b>Inspector</b>	Paul Caprani.

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## 1.0 Introduction

PL07.249156 relates to a first party appeal against the decision of Galway County Council to issue notification to refuse planning permission for an extension to an existing quarry outside Loughrea in County Galway. Galway County Council issued notification to refuse planning permission for five reasons relating to surface water management and flood risk, impact on Natura 2000 sites, potential impact on residential amenity, the proposal would give rise to a traffic hazard, and insufficient information regarding wastewater treatment on site. An observation was also submitted supporting the decision of the Planning Authority and expressing particular concerns in relation to surface water management. The application was accompanied by an EIS.

## 2.0 Site Location and Description

- 2.1. The existing quarry is run by Vincent Cannon and Company and is located approximately 3½ kilometres south-east of the town of Loughrea in East Galway. The site is located on the northern side of a local third class road which runs south-eastwards from Loughrea towards the small settlement of Tynagh and on towards Portumna further south-east. There are two accesses to the quarry, the main access from the road to the south of the site and an additional access from a road which runs northwards to the east of the site.
- 2.2. The site itself is roughly rectangular in shape and has a dedicated access from the local road to the south to the quarry. This access is approximately 170 metres in length. It leads to a small office building and weighbridge near the entrance to the quarry. Lands behind the office building to the west are more elevated and accommodate the garage and maintenance area associated with the quarry. Lands to the north of these buildings accommodate the main extraction area associated with the quarry. The existing extraction area is approximately 250 metres in width and approximately 500 metres in length. The entire site (existing quarry and proposed application area) amounts to some 24.8 hectares (61 acres). According to the information contained on file approximately 13.4 hectares of the entire site has

been excavated to date. The proposed extension amounts to 11.4 hectares. The existing quarry has been excavated to a depth of approximately 100 metres Ordnance Datum - a depth of approximately 30 metres below surrounding grounds levels. The material excavated on site is hard limestone. The limestone is screened and crushed on site and stockpiled as aggregate for sale for various construction projects in the wider area. Drilling and blasting takes place to extract the limestone from the rock face prior to the processing of the material. There are two quarry benches around the existing quarry face both are approximately 15 metres in height.

- 2.3. In terms of water management, the information contained on file indicates that the excavations undertaken on site have not breached the water table and therefore surface water management comprises of collecting rainwater in a central sump area within the quarry (see photographs) and pumping the surface water to a series of settlement tanks before discharging it to a ditch which runs along the eastern side of the access lane serving the quarry. The water then runs eastwards along a ditch on the northern side of the local road serving the subject site. It is culverted across the local road and along a local road to the south before being piped to a Turlough located approximately 700 metres to the south-east of the entrance to the site.
- 2.4. In terms of surrounding settlement, the proposed development is located in a rural area characterised by farmholdings interspersed with one-off suburban type housing. The existing settlement in the area surrounding the quarry is indicated in Figure No. 3.1.1 of the development plan. In general, dwellinghouses are confined to the southern side of the access road in the vicinity of the quarry and also there are dwellinghouses fronting onto the local road which runs northwards to the east of the site. A number of these dwellinghouses back onto the eastern boundary of the site. There is one dwellinghouse on the northern side of the access road approximately 200 metres to the west. The nearest dwellinghouse to the existing quarry is located near the north-eastern boundary and is approximately 50 metres from the eastern boundary of the site.
- 2.5. Under the current application it is proposed to extend the quarry in a northerly and westerly direction. The area to be extended beyond the northern boundary comprises of rough scrubland which does not appear to be in any agricultural use. The lands along the existing boundary comprise of two smaller fields to the south and a larger field to the north. This land comprises of open grazing land surrounded

by low hedgerow with clumps of scrubland and vegetation within the fields. Fields further west that do not form part of the current application are used for a mixture of pasture and arable farming.

### 3.0 Proposed Development

- 3.1. As referred to above, the proposed development comprises of a lateral extension in a northerly and westerly direction of the existing limestone quarry operation on site. It also includes for the incorporation and operation of a readymix concrete plant within the existing quarry area. The extent of the additional extraction area is approximately 11.4 hectares. The proposal will involve the stripping and removal of topsoil and overburden. These soils will be placed in storage berms around the perimeter of the quarry. The limestone will be extracted using conventional quarry methods through drilling and blasting. The material will then be loaded onto dump trucks and taken to the existing processing plant within the quarry (mobile crushers and screens). The working areas are to be benched into two main working faces as per the existing quarry.
- 3.2. It is calculated that the total reserve of limestone in the proposed extension is c.5 million tonnes. Based on an average output of 200,000 tonnes per annum it is estimated that the life of the quarry will be 25 years. Allowing for a five-year period of rehabilitation and aftercare the overall life of the quarry is estimated to be 30 years. It is proposed to utilise the existing site access which currently serves operations on site.
- 3.3. A readymix concrete plant is to be installed within the existing quarry. The EIS states that the plant manufactures primarily low carbon concrete. This concrete replaces in part the use of Portland Cement in concrete on a 1:1 basis. Used appropriately this ground granulated blast furnace slag (GGBS) which is used in the manufacture of the low carbon concrete will reduce CO<sub>2</sub>, and NO<sub>x</sub> emissions of concrete by over 50%.
- 3.4. The proposed concrete batching plant is to be located in the southern portion of the site just north of the existing workshop and garage and c.60 metres north-west of the existing office near the entrance to the site. It will consist of the following elements:
  - Aggregate storage bins.

- Conveyor.
  - Cement silo.
  - A mixing house.
  - Water recycling bays.
- 3.5. Course aggregates from the quarry will be mixed with sand and cement prior to adding water. The concrete is manufactured on site and then delivered off site by truck mounted transit mixers. The cement is delivered to the plant by tanker and piped into the cement silo. The silo is fully enclosed. The maximum height of the batching plant is 12.8 metres.

#### 4.0 Planning Authority's Decision

Galway County Council in its decision dated 4<sup>th</sup> August, 2017 refused planning permission for the proposed development for five reasons which are set out in full below.

1. *Having regard to the flood history in the vicinity of the site and the surface water management proposals outlined in the planning application details, the Planning Authority is not satisfied that surface water arising from the quarry development can be satisfactorily disposed of on lands under the control of the applicant, and therefore the proposed development has the potential to exacerbate flood risk within the vicinity of the site. Accordingly, to grant the development as proposed would materially contravene Objectives WW7 and FL1, FL2 and FL3 of the Galway County Development Plan 2015 – 2021, would be contrary to the Planning System and Flood Risk Management Guidelines, which are Ministerial guidelines issued under Section 28 of the Planning and Development Act, 2000 (as amended) and therefore would be contrary to the proper planning and sustainable development of the area.*
2. *Having regard to the nature and scale of the proposed quarry development, the direct, indirect and cumulative effects of the proposal on a European site, the surface water catchment of the proposed development with a hydrological linkage (source – pathway – receptor) to Lough Derg, the requirements to implement the EU Habitats Directive (92/43/EEC) and the EU Birds Directive*

*(79/409/EEC, as amended by Directive 209/147/EC) and the European Communities (Natural Habitats) Regulations 1997 as amended by the European Communities (Birds and Natural Habitats) Regulations 2011, and the requirements of Objective EQ4, in addition to Policy NHB1, Objective DS6, Objective NHB1, Objective NHB2, Objective NHB3, and DM Standard 40 of the Galway County Development Plan 2015 – 2021, the Planning Authority is not satisfied, based on the information available and the information included in the planning application, that the proposed project is not likely to have a significant effect individually or in combination with other plans or projects on the integrity and qualifying interests/conservation objectives of any European sites, in particular on the Lough Derg, North-East Shore SAC (002241) and the Lough Derg (Shannon) SPA (004058) due to the deficiencies in surface water management, surface water quality data, flood risk concerns and wastewater disposal arrangements on site. Therefore, taking account of the precautionary principle, it is considered that complete, precise and definitive findings and conclusions capable of removing all scientific doubt have not been reached in relation to the indirect/cumulative impacts on a European site in question and therefore if permitted as proposed, the likely significant, adverse impacts on the integrity and conservation objectives of designated European sites cannot be ruled out, and the development would therefore contravene materially, policies and objectives and a development plan management standard contained in the current Galway County Development Plan, would set an undesirable precedent for similar future development and would be contrary to the proper planning and sustainable development of the area.*

3. *Based on the information contained with the planning application with respect to the environmental impact of the quarry proposal, the Planning Authority is not satisfied that the impacts on residential amenities, flood risk, noise and air quality, traffic and transport impacts, impacts on ground and surface water, and the interaction between the environmental factors, have been satisfactorily addressed by the applicant. In the absence of satisfactory information, the Planning Authority considered the proposed development to be detrimental to the amenities of the area or properties in the vicinity,*

*prejudicial to public health, would pose an unacceptable risk to receiving waters, endanger public safety by reason of a traffic hazard, obstruction of road users or otherwise and therefore, be contrary to the proper planning and sustainable development of the area.*

4. *Having regard to the nature and scale of the proposed development and the traffic movements associated with quarrying activity and the recommendations of the Road Safety Audit, which rely on the implementation of recommendations outside the site boundary and control of the applicant, it is considered that the proposed development would endanger public safety by reason of a traffic hazard or obstruction to road users, as the traffic movements likely to be generated by the development would interfere with the safety and freeflow of traffic on a narrow local road network. Accordingly, to grant the development as proposed would be contrary to the proper planning and sustainable development of the area.*
5. *On the basis of the information submitted by the applicant in relation to wastewater treatment and disposal arising from the proposed development, in conjunction with Galway County Council's requirement to treat wastewater to current EPA standards, it is considered that the development, as proposed, would be contrary to the EPA Code of Practice Wastewater Manual(s), would be prejudicial to public health, would seriously endanger the health and safety of persons employed in the quarry, would pose an unacceptable risk to surface and groundwaters, would set an undesirable precedent for similar future developments in the area, and therefore would be contrary to the proper planning and sustainable development of the area.*

#### **4.1. Documentation Submitted with the Planning Application**

The application was lodged with Galway County Council on 5<sup>th</sup> December, 2016 by Williams Planning and Environmental on behalf of the applicant. It was accompanied by the following documentation:

- The planning application form and associated planning fee.
- An EIS together with a non-technical summary.
- A Natura Impact Statement



- Six copies of plans and drawings together with public notices etc.

## 4.2. Initial Assessment by the Planning Authority

- 4.2.1. A submission from **Transport Infrastructure Ireland** requested the Planning Authority abide by the official policy in relation to development on/affecting national roads and states that the proposed development shall be undertaken strictly in accordance with the recommendations of the Transport (Traffic Impact) Assessment. Any recommendations arising should be incorporated as a condition on the permission, if granted. The developer should be advised that any additional works required as a result of the assessment should be funded by the developer.
- 4.2.2. A submission from **An Taisce** states that the planning history of the site needs to be addressed. All issues of condition compliance should be assessed and addressed as a preliminary matter in considering this application. Galway County Council has permitted significant additional one-off housing in proximity to the quarry since 1984. It needs to be determined if extended quarrying is reconcilable with this.
- 4.2.3. A submission from the **Moanmore Residents Association** (observers to the current appeal) raised concerns in relation to flooding. This observation includes photographs depicting flooding events in the area.
- 4.2.4. A report from the **Environment Section** states the following:
- A discharge licence will be needed for the discharge of surface waters to the local stream.
  - Concerns are expressed regarding flooding as increased development on this site could increase flood risk particularly given the fact that Galway County Council were unable to progress the flood relief scheme in the area.
  - The current system of storing the wastewater on site and transporting it off site is acceptable for the present until an on-site wastewater treatment system is installed. However, full details of the capacity and condition of the current storage tank is required together with records detailing the collection and transport of waste to the treatment plant and this should be submitted to Galway County Council.

- There are a number of private wells listed in the planning documents. Full details of these wells are required to ensure that they would not be affected by increased quarrying on the site. It is noted that there are no details of any wells upgradient of the site.
- Vibration may be an issue with any new proposed quarry activity and this should be included as a standard planning condition.
- Details of in relation to dust or noise should be addressed by way of standard planning conditions.

4.2.5. An email from the **Acting Senior Executive Engineer** for the Municipal District of Loughrea outlines flooding which occurred in the vicinity of the subject site. It is noted that there was a significant flood event in 2009 on the public road. It is stated that the stormwater/discharge from the adjoining private quarry was a factor in contributing to the flooding. It is stated that efforts to progress a proposed flood relief scheme were unsuccessful. It states that there continues to be a threat of flooding at this location during severe weather events. A position which may be exacerbated by the proposed expansion of the existing quarry operations on site. It is estimated that the minimum cost of flood relief works to manage such flood risk would be €125,000.

4.2.6. A report from the **Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs** in relation to **archaeology** was received by the planning authority, it is requested that the archaeological mitigation recommended in the Environmental Impact Statement be implemented in any grant of planning permission that may issue.

4.2.7. An **Appropriate Assessment Screening Report** undertaken by the planning authority notes the contents of the NIS submitted with the application. It assesses the proposed development in the context of surrounding Natura 2000 sites. It concludes that there are deficiencies in the information relating to surface water disposal on site and surface water quality data in the vicinity of the site and therefore there are potential consequential impacts on Lough Derg (candidate SAC and SPA) through its hydrological links with the subject quarry site therefore the Planning Authority is not satisfied that the proposed project is not likely to have a significant effect individually or in combination with other plans or projects on the integrity and

qualifying interests/conservation objectives of the Lough Derg North-East Shore SAC and the Lough Derg (Shannon) SPA.

#### 4.3. Unsolicited Additional Information Submission

4.3.1. A submission was received on behalf of the applicant by Williams Planning and Environmental dated 17<sup>th</sup> July, 2017. The letter refers to a telephone conversation between the Planning Authority and the applicant's agent on 7<sup>th</sup> February, 2016. On foot of this conversation there was a request by the applicant to extend the period for making the decision on the above application to the 6<sup>th</sup> August, 2017.

4.3.2. The covering letter submitted with the unsolicited additional information makes reference to a letter issued to the applicant by the Planning Authority on 7<sup>th</sup> February, 2017 which included a schedule containing six reasons for refusal relating to the application. The Board will note that this letter does not appear to be on file. However, the unsolicited additional information appears to address the reasons for refusal contained in the schedule attached to the Planning Authority's letter dated 7<sup>th</sup> February, 2017 and this unsolicited additional information is briefly summarised below:

**Item No. 1** of the Planning Authority's reason for refusal relating to flooding and flood risk. It is suggested that the flooding events referred to were significant extensive flooding throughout the entire region. It goes on to outline the existing surface water run-off regime. It is suggested that the surface water illustrated in the photographs do not originate from within the quarry extraction area but originate from overland/surface water flow from the surrounding land. An additional report was prepared by a consultant hydrologist (see Appendix C) of the additional information which contains a number of proposals which complement the current water management system including:

- the construction of a "V notch" weir incorporating automated and continuous measurement and recording of all flow of water in the outlet stream from the quarry.
- An automated water level monitoring system that shuts off any pumping from the quarry when a pre-determined water level is reached.

- It also provides for an additional settlement pond within the quarry and a surface and groundwater quality monitoring programme.

4.4. It is noted that flood alleviation schemes have been explored but earlier proposals put forward by the County Council and supported by the quarry owners were stalled as a result of landownership issues. A number of other drainage alterations can be undertaken in order to alleviate any potential flood risk. Should the Planning Authority be mindful to grant planning permission for the proposed development, these drainage alterations can be addressed appropriately by way of condition.

**Item No. 2** raised in the Planning Authority's letter referred to the inadequacy of the EIS to enable the Planning Authority to adequately assess the potential impacts of the development particularly in relation to residential amenities, traffic, ground and surface waters, flora and fauna and landscape. The applicant in response states that reference is made to a broad statement of issues which are not specified in the Planning Authority's letter. Notwithstanding this, supplementary reports were prepared in relation to ground and surface waters, flora and fauna and visual impact. These are set out as separate appendices Appendix A-H. A traffic impact assessment and a Road Safety Audit was also submitted (see Appendix B1 and B2).

**Item No. 3** raised in the grounds of appeal relates to the absence of a traffic and transport impact assessment and a road safety audit. It is stated that these issues are fully addressed in the supplementary report submitted in this unsolicited additional information by way of Appendix B1 and B2.

**Item No. 4** raised in the Planning Authority's letter related to the inadequate details in relation to the on-site wastewater treatment facility. It is noted that the revised system contained on site was submitted with the application for substitute consent (see Planning History below) and was approved by the Board. The current application will not result in any change to the loading either short or long term to the wastewater treatment plant. It is stated that wastewater will be treated to current EPA standards. While the existing system is considered satisfactory, the applicant will install an alternative system. A percolation area has been identified within the landownership boundary and if necessary a separate application will be made for the installation of the system.

**Item No. 5** relates to potential impact arising from the development on Natura 2000 sites. It is stated that all issues in relation to potential impacts on European sites have been adequately identified and assessed in the NIS submitted with the application. With respect to the Peregrine Falcon, it is well known that Peregrines visit the quarry frequently as in the case of all hard rock quarries. Peregrines however are resilient and adaptable and can co-exist beside working quarries. Enclosed is a formal management plan for Peregrines.

With regard to bats, the NIS submitted considered the issue of bats and there are a number of tree lines in the area which would be unaffected by the proposed development. The issue is further addressed in Appendix D of the submission.

4.4.1. The final issues raised by the Planning Authority relates to phasing and again refers to deficiencies in the EIS in relation to surface waters and groundwaters as well as other environmental impacts. It is stated that phasing is normally not appropriate for hard rock quarries. However, having regard to the comments of the Planning Authority, two phases have been identified and these are indicated on the drawings submitted.

4.4.2. Information submitted in the form of the EIS and the addendum contained in the unsolicited additional information, demonstrates that the proposed development is unlikely to have a significant effect on the receiving environment in terms of surface water management, flood risk, noise, air quality, flora, fauna, transport or landscape.

#### 4.5. **Further Assessment by Planning Authority**

4.5.1. **The planner's report** relating to the application is summarised below:

It is stated that following examination of relevant GIS information in relation to flood risk assessment, the site of the proposed development is within a flood risk area. In relation to the EIS it is stated that the Planning Authority cannot conclude, taking into account the precautionary principle, that the proposed development either individually or in combination with other plans or projects would not adversely impact on the integrity of a European site in view of the conservation objectives of those sites.

- 4.5.2. The planner's report goes onto outline the planning history associated with the site, the various reports and representations on file, the planning policy context and details the processes to be undertaken on site.
- 4.5.3. In relation to surface water, groundwaters and flood risk, details in the EIS are set out in the planner's report. Reference is made to the report of the Environment Section which requires full details of all wells to be referred to due to the lack of general information on groundwater it is considered that the full impact of the proposed development on groundwater cannot be satisfactorily assessed. Reference is also made to the groundwater samples submitted by way of unsolicited additional information and it is considered that while the samples indicate high quality groundwater there was evidence of high concentrations and mineral, oils and aluminium.
- 4.5.4. In relation to wastewater disposal, it is stated that existing and intended staff numbers to be facilitated by the proposed quarry extension are unclear. Further information is required in relation to the proprietary wastewater treatment arrangements to be undertaken on site.
- 4.5.5. It is noted that the site water arrangements are similar to those described in the remedial EIS submitted with the substitute consent application which is granted by An Bord Pleanála in 2014. (See history below). The substitute consent had a specific condition attached which required the agreement of details of surface water management system and a timeframe for implementation to be agreed with the Planning Authority. There does not appear to be any such agreement reached with the Planning Authority to date. Reference is made to the report of the Environment Section which highlights the need for a discharge licence and also raises concerns regarding flooding.
- 4.5.6. In relation to flood risk, it is noted that the site is located within an identified flood risk area relating to pluvial and groundwater flooding. Details are provided in the EIS in relation to culvert arrangements on and in the vicinity of the site and highlight these culverts to be of insufficient capacity. It is considered that the mitigation measures proposed are vague and do not provide clarity in terms of the mitigation of ongoing surface water management and disposal.

- 4.5.7. The report goes on to outline details of the noise surveys undertaken as part of the EIS. It is concluded that it is unclear whether the monitoring presented provide a clear assessment of the level or impact of noise, blasting and vibrations that would be associated with the extent of the quarry area and more intense activity which will have a significantly increased output. It is also considered that the proposal will involve the likelihood of more machinery and operation and therefore increased levels of processing noise. It is considered therefore that the impact of noise has not been satisfactorily addressed.
- 4.5.8. In relation to air quality the information contained in the EIS is noted. However, the absence of dust monitoring results prior to 2016 and when extraction rates were much greater than in 2016, suggests that there are limitations on the assessment of the full impact of dust which would be generated by the proposed development.
- 4.5.9. In relation to archaeology the Planning Authority is generally satisfied with the information contained in the application in respect of archaeology.
- 4.5.10. In terms of landscape and visual impact, it is considered that the quarry will become more visible from the local road network. It is considered that the commentary contained in the landscape impact assessment as part of the EIS does not provide a satisfactory visual assessment. Furthermore, a landscaping plan including screening proposals has not been provided with the application or on the drawings submitted. Hence the Planning Authority is not satisfied that the visual impact of the proposed development can be satisfactorily addressed.
- 4.5.11. In relation to traffic and transportation, it is stated that the EIS provides limited information in relation to these issues. The initial planner's report also noted that a traffic and transport impact assessment nor a Road Safety Audit has been supplied. Therefore, the Planning Authority do not consider that traffic and transportation impacts have been satisfactorily addressed.
- 4.5.12. The planner's report goes on to comment on the flora and fauna assessment submitted as part of the application and other considerations including phasing and restoration plans. In relation to the environmental impact statement submitted it is considered that the EIS does not provide adequate assessment of alternatives nor does not adequately assess the potential impacts on surface and groundwaters, air quality, noise and vibration, traffic and transportation and landscape and visual

impact. Deficiencies in some of the baseline data and information provided are also noted. There are also deficiencies on mitigation measures and deficiencies in identifying the interactions of impacts with other environmental factors. On this basis the Planning Authority is unable to conclude that the development would not have a significant adverse impact on the receiving environment either direction or indirectly and in combination with other projects.

4.5.13. In relation to the appropriate assessment a similar conclusion is reached thus the Planning Authority taking account of the precautionary principle cannot conclude that the proposed development would not adversely affect the integrity of any European site in view of the site's conservation objectives specific reference being made to the Lough Derg North East Short SAC and the Lough Derg Shannon SPA.

4.5.14. **An addendum to the planner's report** assesses the proposal in the context of the unsolicited additional information submitted. It is briefly set out below.

4.5.15. In relation to the flood risk and surface water disposal issues it is noted that comprehensive revised details for surface water collection and disposal and associated flood alleviation measures are proposed in the details submitted. However, serious concerns are expressed in relation to these revised proposals. It is stated that there is no opportunity for third parties to make comments and this is contrary to Article 11 of the EIA Directive. Furthermore, a significant aspect of the revised proposals involves works outside the boundary of the subject site.

4.5.16. The additional information addresses some concerns raised in relation to flora and fauna and landscape. However, potential concerns remain in relation to the potential impacts on the development of residential amenities, traffic and transport, ground and surface waters and interaction between the above factors.

4.5.17. It is noted that a road safety audit and a TIA has been included in the unsolicited additional information. Again, the road safety audit relies on a recommendation to carry out works on lands outside the control of the applicant and therefore outstanding issues remain in relation to traffic safety.

4.5.18. In relation to wastewater disposal proposals a site suitability assessment has been submitted. It recommends the disposal of effluent through a septic tank and new percolation area of which no details are provided and where new details refer to a new application in this regard. Therefore, wastewater disposal issues remain



outstanding. While additional ecological information is noted there are nevertheless outstanding issues in relation to surface water disposal/flood alleviation and it is considered that the NIS lacks complete, precise and definitive findings capable of removing all scientific doubt in respect of potential impacts.

- 4.5.19. It is also stated that there are outstanding concerns with regard to conditions attached to the substitute consent associated with the existing quarry.
- 4.5.20. The final section of the addendum report concludes that the information contained about the NIS and the EIS does not allow the Planning Authority to carry out a robust examination analysis and evaluation of the environmental impact or the potential impacts on a European site.
- 4.5.21. The planner's report therefore recommends that planning permission be refused for the five reasons set out above.

## **5.0 Planning History**

- 5.1. There are no history files attached. The planning history associated with the site are set out in both the EIS submitted with the application and the planner's report and the relevant history is summarised below.
- 5.2. Under Reg. Ref. 46752 planning permission was granted for the excavation of a quarry on the subject site amounting to 9.5 hectares. An application for extension for two years was granted in April 1989.

The quarry was registered under Section 261 of the Planning and Development Act, 2000 under QY59 (8<sup>th</sup> March, 2007).

- 5.3. It was determined under the provisions of Section 261A(2)(a) that development was carried out after the 1<sup>st</sup> February, 1990 which would have required a determination of the need for EIA and such a determination was not carried out. Thus the applicant was directed to apply for substitute consent. The determination was based on the reasons relating to the overall size of the quarry which exceeded 5 hectares. The Planning Authority also determined that development was carried out after the relevant date (26<sup>th</sup> February, 1997) where development would have required having regard to the Habitats Directive an appropriate assessment but such an assessment was not carried out.

- 5.4. An application for substitute consent was lodged under Reg. Ref. SU07-SU0047. The Board granted substitute consent subject to six conditions.

Condition No. 2 required that all environmental mitigation measures identified within the remedial Natura Impact Statement, remedial Environmental Impact Statement and associated documentation shall be implemented in full, save as may be required to comply with conditions set out below.

**Reason:** In the interest of the conservation of the environment and the amenities of the area and property in the vicinity.

Condition No. 3 requires that within six months of the date of the order details shall be submitted to, and agreed in writing with, the Planning Authority in relation to the ongoing monitoring of groundwater levels, surface water quality and dust.

**Reason:** In the interest of conservation of the environment and to protect the amenities of the area.

Condition No. 4 requires that within six months of the date of the order, details of improvements to the surface water management system, and a timeframe for implementation, shall be submitted to and agreed in writing with the Planning Authority. The proposal shall address any ongoing requirement for discharge of waters from the quarry. The details submitted should demonstrate that the surface water management system would be capable of dealing with a storm event.

**Reason:** In the interest of orderly development and protection of the environment.

## 6.0 Grounds of Appeal

- 6.1. The decision of Galway to issue notification to refuse planning permission for five reasons was the subject of a first party appeal on behalf of the applicant submitted by Williams Planning and Environmental.
- 6.2. The grounds of appeal commence by outlining the background to the current application. It highlights the importance of the quarrying activity for local employment in the area and the important role aggregates play as a vital resource for economic growth and development. The grounds of appeal also outline the planning history as it relates to the site and details the current application before the Board. The

submission highlights the fact that the applicant made monies available (€20,000) in order to carry out works aimed at alleviating flooding in the area.

- 6.3. It is argued that the Planning Authority in general have misinterpreted details of the application. The planner's report makes it clear that Galway County Council understand that the proposed development represents an intensification of use. The proposed development does not, as is claimed in the planner's report, represent a significantly increased output. The appeal states that quarry output responds to demand which in turn is dependent on the economic climate. It is therefore incorrect to assume that there will be any consequential increase in plant and machinery as a result of the proposed development. As such there will be no commensurate increases in noise and dust etc. Likewise, blasting will be directly related to output and all limits will comply with guidelines in relation to the same.
- 6.4. The grounds of appeal suggest that the Planning Authority while having concerns in relation to the proposed development should have addressed these concerns by way of seeking further information. In making a decision to refuse the application the Planning Authority chose not to seek any further information to address such queries.
- 6.5. The grounds of appeal go on to address each of the reasons for refusal and these are summarised below.

*Reason No. 1*

- 6.6. In relation to the first reason for refusal, the reason suggests that the lateral extension has the potential to exacerbate flood risk in the area. According to the grounds of appeal, this reason for refusal is extremely tenuous. There is no evidence that the proposed extension presents a realistic risk of flooding. Flooding on the local road has occurred on a historic basis. It is suggested that no attempt was made to assess or evaluate the water management system in the quarry. No water is pumped from the quarry when there is a risk of flooding. It is stated that the quarry does not contribute to local flooding nor did it contribute to the flood events in 2009 and 2015. Water will only be permitted to leave the quarry under appropriate conditions. Water collected in the quarry will be assimilated into the groundwater over a period of time or will leave the quarry as controlled discharge to the drainage system. Any water discharged from the quarry will receive primary and secondary treatment and will

therefore be of a higher quality when compared with uncontrolled surface water runoff.

- 6.7. Reference is made to the fact that controlled discharge will take place by active management of surface water discharge from the site. This will include the incorporation of a 'V-notched' weir with an automatic level logger to provide continuous measurement and recording of discharge flow rates from the quarry. A level monitoring system will also be located at the culvert which will automatically shut off pumping when culvert water levels reach a predetermined level. It is suggested as a result of these measures that the quarry extension if granted, will result in a reduced risk rather than an increased risk of flooding.
- 6.8. The quarry owners have offered to facilitate a flood remediation scheme. The applicant also has obtained permission from a landowner downstream for the proposed improvements. However, it is stated that the local flood alleviation scheme is a separate issue from the quarry planning application and is not required in order to enable the quarry extension.
- 6.9. The reason for refusal also suggests that surface water arising from the quarry cannot satisfactorily be disposed of on lands under the control of the applicant. It is suggested that this is not practical. Surface water cannot be dealt with internally within the quarry itself. The planning report also suggests that the planning application is premature pending the delivery of a flood relief scheme. It is noted that the Council have been unable to deliver a scheme since 2009.

*Reason No. 2*

- 6.10. The second reason for refusal relates to the potential impact of the proposed development on qualifying interest/conservation objectives associated with designated European sites in the vicinity specifically Lough Derg North East Shore SAC and Lough Derg (Shannon) SPA.
- 6.11. The NIS submitted with the application was prepared by a leading ecologist who has in excess of 15 years of experience in carrying out ecological surveys on an academic and professional basis. It is noted that An Bord Pleanála in considering the application for substitute consent, carried out an appropriate assessment and details of An Bord Pleanála's conclusion in respect of the appropriate assessment is set out.

- 6.12. The subject application proposes a lateral extension to the extraction area for the purposes of continuing extraction. There will be no significant changes to the operation of the quarry.
- 6.13. A further ecological submission was made which focused upon the draft reason for refusal contained in the Planning Authority's letter dated 7<sup>th</sup> February, 2017. This submission was prepared by another consultant ecologist. This assessment likewise concluded that there would be no significant impacts on the qualifying interests of the designated sites.
- 6.14. Furthermore, it is noted that the reason for refusal states "*complete, precise and definitive findings and conclusions capable of removing **all** scientific doubt have not been reached*". It is stated that this is not correct. The assessment should have been made on the basis of "*precise and definitive findings and conclusions capable of removing **all reasonable** scientific doubt*" should have been used in assessing the application. It is asserted that this is an important distinction.
- 6.15. The fact the Board considered that the existing operations on site will not impact on designated sites and the fact that two leading ecologists in carrying out an assessment of the current application came to a similar conclusion, supports the appellant's contention that the proposed development will in no way adversely impact on the integrity of any European sites in the area. Furthermore, water samples were taken from a stream approximately 1 kilometre to the south-east of the quarry. The water samples show that the discharge in groundwater is of good quality and this has been independently confirmed by the EPA.

*Reason No.3*

- 6.16. In relation to the third reason for refusal, it is suggested that this reason is "catch all" reason which refers to an array of potential environmental impacts but does not contain any specific example or any specific reasons as to why the application should be refused. In relation to impacts on residential amenities, it is stated that there is no evidence that there was any impact on residential amenity and there are no history of complaints in this regard. Noise monitoring undertaken for the quarry operations has demonstrated that noise levels are within guideline limits. Dust monitoring and vibration monitoring have also been carried out and these are likewise deemed to be within limits. Reference is also made to the Environment

Section of the County Council which notes that there are no concerns in relation to dust or noise and that these issues can be addressed by way of standard conditions. Furthermore, the Planning Authority as consultees to the substitute consent process did not make any submissions to the effect that the quarry had caused significant environmental impacts or impacts on residential amenities. It is again reiterated that the proposed development will not have any impact on ground or surface waters.

*Reason No. 4*

- 6.17. In relation to the fourth reason for refusal which raises concerns in relation to traffic, the grounds of appeal note that the quarry has operated since 1986 and has done so under various degrees of traffic generation. There is no history of serious accidents on the local road caused by quarry traffic. The Road Safety Audit carried out on behalf of the applicants identifies a number of issues which would be expected under any road safety audit. Any works to be carried out outside the appellant's control could be adequately dealt with by way of a financial contribution for works to be undertaken. It is stated that the report prepared by executive engineer indicates that there is no objection to the application subject to the requirement of a special contribution towards road costs.

*Reason No 5*

- 6.18. The final reason for refusal relates to the wastewater disposal system at the quarry. It is noted again that during the application of substitute consent, the Planning Authority, as consultees, did not object to the method of wastewater treatment operating on site. An Bord Pleanála in granting substitute consent, noted that the proposed development would not be prejudicial to public health and would not pose an unacceptable risk to surface or groundwaters. It is noted that a report from the Environment Section prepared in respect of the current application considered "*the current system of storing waste on site and transporting it off site is acceptable for the present until an on-site wastewater treatment system is installed*". The additional information provided by the applicant confirms that a new treatment system would be installed if required by the Planning Authority. Thus, this reason for refusal is unsupported by any evidence and is therefore not sustainable.

## 7.0 Appeal Responses

It appears that Galway County Council did not submit a response to the grounds of appeal.

## 8.0 Observations

- 8.1. One observation was submitted by Bernard Pierce on behalf of the Moanmore Residents Association. The contents are outlined below:
- 8.2. It is noted that the applicant proposes to discharge to a Turlough located to the south-east of the existing quarry. The open drain is proposed to be routed at the back boundary fences of a number of existing houses and this raise serious concerns in relation to flood risk. The additional information fails to furnish a site layout plan outlining the zone of contribution of surface water for calculation purposes or to furnish a survey contour map of all lands contributing to the flooding problem. No calculations have been included for surface water run-off from the large catchment area located on the opposite side of the road from the said Turlough. No dimension sizes or capacity are provided for the open drain proposal. It is suggested that a full site specific flood risk assessment is required.
- 8.3. In relation to the appeal lodged, the observation restricts its deliberations to the first reason for refusal, and the applicant's response to it. It states that it fully accepts that water within the quarry from the working floor is released in a controlled manner. The problem rests with managing water flows over agricultural lands. It is stated that overburden stripped from the quarry has been stockpiled at the perimeter of the extraction area which has resulted in the filling in of drains, waterways and drainage paths. This has resulted in waters from the applicant's land flooding adjoining agricultural lands. There are numerous policies contained in the development plan to ensure that good practice on flood risk management and assessment are carried out in respect of developments. It is suggested that the surface water infrastructure in this area is totally insufficient. The granting of planning permission is considered premature at best pending the upgrading of local surface water infrastructure for the area.

## 9.0 Development Plan Provision

- 9.1. The site is governed by the policies and objectives contained in the Galway County Development Plan 2015 – 2021. Section 6.20 of the development plan relates to mineral extraction and quarries. The Plan states that quarrying and other extractive industries are recognised as important to the local rural economic development of the county in terms of generating employment and providing raw material to the construction industry. Extractive industries can also give rise to a detrimental environmental and residential amenity effects including increased traffic, dust, noise, water pollution, visual intrusion and the effects on local road networks may also be significant.
- 9.2. Policy EQ1 seeks to have regard to evolving best environmental management practice as set out in the EPA Guidelines – “Environmental Management in the Extractive Industry Non-Scheduled Minerals” and to the recommendations of the EU Guidance document “Undertaking non-energy Extractive Activities in accordance with Natura 2000 requirements”.
- 9.3. Policy EQ2 seeks to ensure adequate supplies of aggregate resources to meet future needs within County Galway, facilitate the exploitation of such resources and where there is a proven need and market opportunity for such minerals or aggregates, to ensure that this expectation of resources do not adversely affect the environment or adjoining existing land uses.
- 9.4. In terms of objectives, Objective EQ2 relates to the management of aggregate extraction. The Council require the following relation to the management of authorised aggregate extraction.
- (a) All quarries should comply with requirements of the EU Habitats Directive, the Planning and Development (Amendment) Act, 2010 and by the guidance as contained in the DOEHLG –“ Quarries and Ancillary Facilities Guidelines (2004) and the above EPA Guidelines and to DM Standard 37 of this development plan.
  - (b) Require development proposals on or in proximity to quarry sites to carry out appropriate investigation into the nature and extent of old quarries (where applicable). Such proposals should also investigate the nature and extent of



soil and groundwater contamination and the risks associated with site development works together with appropriate mitigation.

- (c) Have regard to the landscape character assessment of the County and its recommendations including the provision of special recognition to the Esker areas as referenced in the Galway County Council's – "Galway's Living Landscape – Part 1 Eskers".
- (d) Ensure that any quarrying activity has minimal adverse impact on the road network.
- (e) Ensure that the extraction of minerals or aggregates does not adversely impact on the residential or environmental amenity.
- (f) Protect all known unworked deposits from the development that might limit their scope for extraction.

9.5. Objective EQ4 – compliance with Article 6(3) of the EU Habitats Directive. Ensure all projects associated with the mineral extractive industry carry out screening for appropriate assessment in accordance with Article 6(3) of the Habitats Directive where required.

9.6. DM Standard 37 sets out the development management standards in respect of extractive industry and is set out in full below.

The following details should be considered central to determination of any application for planning permission for extractive industry.

- (a) *Guidelines* – compliance with the provisions and guidance as appropriate contained in Section 261 of the Planning and Development Act, 2000, by Section 74 and 75 of the Planning and Development (Amendment) Act, 2010, the DOEHLG Guidelines entitled Quarries and Ancillary Facility Guidelines 2004 and the EPA Guidelines for Environmental Management in the Extractive Sector 2006. Where extractive development may impact on archaeological or architectural heritage, regard should be had to the DAHG Architectural Conservation Guidelines 2011 and the Archaeological Code of Practice 2002 in the assessment of planning applications. Reference should be made to the Geological Heritage Guidelines for Extractive Industry 2008 including any updated or superseded documents.

- (b) *Landownership* – the extent of landownership. Details should be submitted showing the proposed site in relation to all lands in the vicinity in which the applicant has an interest.
- (c) *Deposits* – the nature of all deposits. Details to be submitted to include depths of topsoils, subsoil, overburden and material at various points on the site, an indication of the type of minerals which it is intended to extract, a statement as to whether the permanent rock from which the material is extracted is suitable for other uses, an estimated total quantity of rock and mineral that can be extracted commercially on the site.
- (d) *Methods* – the method of excavation and machinery to be used. Details to be submitted to include all proposed site development works including: the proposed method of working, any existing or proposed areas of excavation, states of work proposed, locations of any settlement ponds, waste material and/or stockpiling of materials, methods for removing and storing topsoil, subsoil and overburden etc.
- (e) *Production* – the quantification of production in a given time. Details to be submitted to include the proposed production process to be employed, all requirements for water, electricity and/or other inputs to the production process or any proposals for chemical or other treatments.
- (f) *Mitigation* - methods to reduce the environmental impact. Details to be submitted include an assessment of potential impacts on water resources, residential and visual amenity (including noise, dust and vibration impacts), biodiversity and any other relevant considerations together with appropriate proposals for the mitigation.

Proposals for development where appropriate should be accompanied by a surface water baseline study of watercourses in the vicinity and a hydrogeological assessment to the impact of groundwater flows in the area and the impact of well and water supplies in the area.

- (g) *Access* - vehicle routes from the site to major traffic routes and impacts on the adjoining road networks. Details should be included on the mode, number and weight of trucks or other vehicles being used to transport materials and any truck sheeting or washing proposals. The Council may require traffic impact

assessment and road safety audit for all new development. The Council may require a special contribution in accordance with Section 48 of the Planning and Development Act, 2000, as amended for the upgrade/improvement works along the route corridor of the quarry to facilitate the proposed development.

- (h) *Rehabilitation* – a scheme of rehabilitation and aftercare. Details to be submitted should include a report with plans and sections detailing the anticipated finished landform and surface landscape treatments both of each phase and the whole excavation, quality and condition of topsoil and overburden, rehabilitation of works proposed, the type and location of any vegetation proposed, the proposed method of funding and delivery of restoration/reinstatement works, etc.

The Council require that all proposals for development are accompanied by a detailed restoration plan and aftercare proposals which shall be progressed on a phased basis. The restoration plans shall ensure the landscape is restored with regard to its original character and with reference to the landscape character assessment for County Galway 2002 as incorporated within this plan. The restoration plan shall be accompanied by a detailed costing of work by a qualified quantity surveyor.

The Council will apply a bond, as appropriate for the satisfaction completion of restoration works. The site may be adapted for a variety of uses depending on the level of extraction and shall be in agreement with the Planning Authority and consideration of the local *community*.

*An environmental impact study* - Any environmental impact study including any remedial EIS required by statute. The EIS should ensure all impacts in relation to heritage environment, biodiversity, groundwater protection etc. are clearly addressed and appropriate mitigation measures are included.

- (i) *Proximity* – proximity to other developments. Details to be submitted include location of all existing developments in the vicinity of the site that might be affected by the site development work, extractive operations and/or traffic movements generated.
- (j) *Landscaping and screening* - Details to be submitted to include an indication of existing trees or other screening to be retained or removed and any

proposed screening, grassing or planting of trees or shrubs and proposals for their maintenance.

- (k) *Heritage and Biodiversity* - Proposals in relation to heritage and biodiversity would include any recommendations for the site to be considered as part of the geological heritage of the county and any proposed measures with regard to the protection of promotion of the environment and biodiversity, including any proposal for rehabilitation. The Council require an ecological impact assessment for all proposals within the vicinity of an SPA, SAC or NHA. Where a quarry development falls within a conservation designation the developer is advised to consult with the DECLG prior to making an application. Evidence of such consultation should be submitted to the Planning Authority at application stage. It shall also be the requirement that all new proposals that are likely to have an impact on an SAC or SPA shall be screened for the need to undertake Habitats Directive. The Council will require that the operator of a quarry shall put in place an environmental monitoring system to monitor all environmental standards (noise, dust and blasting etc.) on an ongoing basis.
- (l) *Security* - Full details regarding securing the perimeter boundary of quarry shall be submitted and agreed by the Planning Authority as part of the planning process.

- 9.7. Section 8.6 and 8.7 of the development plan relate to flooding and floor risk management policies and objectives.
- 9.8. Policy FL2 seeks to ensure that the Council actively work with CFRAM programme and locally based flood planning groups, especially in the east of the county where catchments go beyond the Council's administrative boundary in the development and implementation of catchment based strategies for the management of flood risk including those relating to storage and convenience.
- 9.9. Objective FL1 seeks to ensure that development complies with the requirements of the DOEHLG/OPW Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009) and its accompanied Technical Appendices document. This will include the following:
- (a) Avoid, reduce and/or mitigate as appropriate in accordance with the guidelines.

- (b) Development proposals in areas where there is an identified and potential risk of flooding or that could give rise to a risk of flooding elsewhere will be required to carry out a site specific flood risk assessment, and justification test where appropriate in accordance with the above guidelines.
- (c) Development that would be subject to an risk of flooding or that would cause or exacerbate such a risk at other locations shall not normally be permitted.
- (d) Galway County Council shall work with other bodies and organisations as appropriate to help protect critical infrastructure including water and wastewater within the county from risk of flooding.

9.10. Objective FL3 seeks to protect water bodies of watercourses within the county from inappropriate development, including rivers, streams, associated undevelopment, riparian strips, wetlands and natural floodplains. This will include protection buffers in riverine, wetland and coastal areas as appropriate.

## **10.0 DOEHLG Guidelines for Planning Authorities and Quarries and Ancillary Activities (April 2004)**

- 10.1. These guidelines are designed to assist Planning Authorities in assessing planning applications for new quarry developments. The guidelines stress the economic importance of aggregates and the main environmental implications including noise, vibration and dust are discussed. The potential for earthberms and quarry faces to attenuate noise is noted as is the potential for dust to impact up to 0.5 kilometres from the source although significant concerns regarding dust are within 100 metres of the source.
- 10.2. Regarding water, the Guidelines note that an appropriate drainage system should be provided to minimise surface water run-off into the quarry and, where there is a discharge of processed water to surface watercourses, emission limits should be specified in the discharge licenses. Possible conditions including the restriction of operation hours, noise limits, control of dust, blasting/vibration and water pollution and water discharges are also discussed in the document.

## 11.0 Planning Assessment

I have read the entire contents of the file, have had regard to the planning history as it relates to the site, visited the site in question and have had particular regard to the issues raised in the Planning Authority's notification to refuse planning permission, the grounds of appeal and the observations submitted in respect of the current application and appeal. I consider the critical issues in determining the current application are as follows:

- Surface Water Management, Groundwater Management and Flood Risk.
- Impact on Residential Amenity.
- Traffic Transportation and Road Safety Issues.
- On-Site Wastewater Treatment System.
- EIS Assessment.
- Appropriate Assessment.

Each of these issues will be dealt with under separate subheadings below.

### 11.1. Surface Water Management, Groundwater Management and Flood Risk

- 11.1.1. Evidence has been presented on file that significant flooding occurred in the area in 2009 and again in 2015. Photographs have been submitted in observations submitted to the Planning Authority indicating the level and extent of flooding. The Board will also note that there is a sign on the approach road to the immediate west of the subject site indicating that the road in question is prone and liable to flooding. The issue of flooding has been acknowledged by all parties and has resulted in the past, in the establishment of a group, incorporating the Council and third parties to implement a flood alleviation scheme. Preliminary works carried out in respect of the flood alleviation scheme identified surface water discharge from the quarry as being a contributory factor to flooding in the area.
- 11.1.2. The quarry floor of the existing quarry is at approximately 100 metres AOD. This level appears to approximate with groundwater levels in the area although it is likely that the groundwater level fluctuates seasonally and may on occasion contribute to

water levels within the quarry floor when the water table is at its maximum extent. All water collected in the quarry floor is collected in a sump area at the lower level of the quarry and is pumped to the upper area where it passes through a two chamber settlement tank. I noted during the course of my site inspection that an additional tank is currently being constructed in order to provide additional capacity and retention time. Discharge of surface water from these series of tanks is via a pipe to a drain which runs along the eastern side of the access road to the site and onto a drainage ditch along the roadway and then the water makes its way to a turlough located to the south-west of the site. The applicant states that discharge from the quarry floor and the settlement tanks is controlled so as to avoid significant discharges which could exacerbate flood risk during periods of heavy rainfall. The applicant proposes to augment the water system management by providing a new 'V-notch' weir with an automated level logger to provide continuous measurement and recording of discharge flow rates from the quarry. It is also proposed to provide a new monitoring system at the culvert where discharge waters leave the boundary and this will include a feedback switch which will automatically shut off pumping when culvert water levels reach a predetermined or critical level.

11.1.3. A key question which the Board must determine is whether or not the proposed development presents a risk of exacerbated surface water run-off which could contribute to the existing flood risk to the area. I would have a number of concerns with regard to the proposed development. The removal of overburden and soil is likely to accentuate quicker run-off rates within the quarry and onto the quarry floor. The removal of soil and subsoil within the existing fields where the proposed quarry is to be extended, where currently rainwater is stored and absorbed, would have a material effect on surface water run-off rates. The proposal in this instance seeks to extend the quarry over an area of c.11 hectares (or 28 acres). This would remove a significant amount of water storage capacity within the soils and subsoils which currently occupy the lands in question. Precipitation over a greater area of dense and impermeable rock will accentuate more rapid run-off and will increase the volume of run-off as the storage capacity or 'field capacity' of soil and subsoil will be removed. I consider that there is a general lack of information in the application with regard to run-off rates and volumetric flow rates from the quarry. Hence the reference in the grounds of appeal that the Planning Authority's first reason for

refusal is based on “tenuous grounds” suggest that the grounds of appeal acknowledge that discharge rates from the quarry and its contribution to flooding in the area cannot categorically be ruled out as a result of the proposed extension. There is no evidence produced on file which indicates that there is sufficient storage capacity within the retention tanks to cater for increased run-off rates within the quarry as a result of the proposed extension.

- 11.1.4. The proposal also gives rise to a greater threat in my view, of increased groundwater intrusion. I reiterate that the information contained on file indicates that the existing quarry floor is at or just above the water table. In general, the borehole logs contained in the EIS would support this contention. Having inspected the site, I would consider that it is likely that some of the deeper depressions within the quarry floor may be - to some extent - groundwater fed at least on a limited and intermittent basis. The natural topography of the site and its surroundings generally falls from east to west. There is a 10 metre height difference between the existing western boundary of the site and the new proposed western boundary of the site as a result of the extension. Groundwater profiles normally follow the topography of the terrain above. Therefore, it would not be unreasonable to conclude that the direction of groundwater flow in the proposed extension extended area would be from west to east towards the existing quarry area. In fact, the current groundwater contour map (see Figure 10 of the EIS) would generally support this conclusion.
- 11.1.5. I further note that borehole logs presented in Table 2 of Section 3.4 of the EIS would also support this conclusion. The static water levels in the 9 boreholes indicate a change of c.10 metres in the groundwater levels across the site where in the case of Borehole 1 groundwater levels of 100.49 metres AOD were recorded at the eastern boundary of the site. In the case of Boreholes 5, 6 and 9 which are located along the western boundary and northern boundary of the site the static groundwater levels were recorded at between 108 and 111 metres AOD. This suggests that (a) there is a significant variation in groundwater levels across the subject site and (b) the areas yet to be excavated appear to have higher groundwater levels than the existing area of the quarry that has been the subject of excavation to date.
- 11.1.6. There is therefore a real and potential threat that the further excavation of aggregate in a northerly and westerly direction as proposed under the current application could result in the penetration of the water table on a more permanent basis and this in



turn would result in the likelihood of a greater groundwater egress into the site. Furthermore, I would refer the Board to the photographs attached to this report. Photograph 16 relates to the northern quarry face and does suggest that groundwater egress may already be occurring in the northern portion of the site as a result of the existing excavation undertaken.

- 11.1.7. In fact, the conclusion set out in my assessment has also been acknowledged in the EIS where the document acknowledges that while the bedrock in the vicinity has a low permeability and high density which is conducive to low water yields, the document nevertheless states (Section 3.4 page 16) that *“the deepening of the existing quarry may encounter high yielding cavities and will require much higher and constant discharge rates in order to maintain a dry working area”*.
- 11.1.8. If greater groundwater egress were to occur together with the increase in surface water run-off within the quarry catchment, this will undoubtedly lead to higher water levels being collected in the quarry floor. The applicant has acknowledged this, and has in fact suggested that discharges off-site should not occur during periods of high rainfall where flood risks in the wider catchment area is high. This therefore could create unworkable conditions within the quarry where excessive water levels accumulate within the quarry floor. In fact, the applicant points in the grounds of appeal that flooding of the quarry floor in such circumstances could pose a significant health and safety risk to workers within the quarry by concealing haul routes and variations in the quarry floor which could pose a risk to operating vehicles and machinery within the quarry.
- 11.1.9. I consider that there is a lack of adequate information with regard to potential run-off rates from the quarry post stripping and excavation. While the applicant does indicate details of the proposed flood alleviation scheme to be implemented in the wider area, no specific details are provided with regard to the quantification of discharge from the quarry. I acknowledge that reference is made to a quarry discharge of 0.014 m<sup>3</sup>/s in paragraph 3.3.2.8 of Appendix C of the additional information submitted. However, no information was provided as to how this figure was arrived at and how it compares with existing discharge rates from the site. There is in my view a paucity of information with regard to existing and predicted quantified discharges from the quarry and as such it is difficult to predict with any degree of certainty whether or not the works to be undertaken would have a significant and

material effect in exacerbating the potential threat to flooding in the area. This issue is all the more important as the wider area is prone to flooding and has a recent history of flooding events.

11.1.10. It would be more appropriate in my view, as suggested in the report from the Galway County Council Environmental Department, that the applicant applies separately for a discharge licence in order to address the issue of surface water discharge from the site. Any such discharge licence should be assessed in the context of whether or not it would contribute to or accentuate the threat of flooding in the area. In the absence of this information, I consider that the proposed development should be deemed premature pending the granting of a discharge licence to discharge surface waters from the quarry.

## 11.2. Impact on Residential Amenity

11.2.1. The environmental impact arising from the existing quarry was assessed under the remedial environmental impact statement submitted with the substitute consent application. Notwithstanding the reporting inspector's conclusion that not all environmental impacts were adequately assessed specifically in relation to noise and to a lesser extent dust and vibration, The Board in its decision nevertheless considered that the remedial EIS was adequate and included that the environmental impact assessment "*did not and would not be likely to have a significant effect on the environment*". It was noted in relation to noise that the quarry operation generally showed compliance with the noise limit of 55 dB(A). The noise section of the EIS demonstrates that the noise levels generated from the quarry will operate within the limits set out in the various guidelines. The background noise levels at the nearest noise sensitive receptors are within acceptable limits.

11.2.2. I note in this instance that it is not proposed to increase productivity over and above that historically undertaken on site. The Inspector's report in the case of the substitute consent application noted that the peak output from the quarry amounted to some 390,000 tonnes per annum. Under the current application the average anticipated output is c.200,000 tonnes per annum or just over half the peak output. I can only conclude that if the Board consider the peak output had an acceptable environmental impact on surrounding residential receptors it is equally likely that the

impact arising from the reduced output would generally be acceptable in terms of noise, dust and vibration.

- 11.2.3. The applicant in the grounds of appeal on a number of occasions, points out that the current application does not seek to increase productivity over and above historic levels on the subject site. What is proposed in this instance is a continuation of quarrying activities at an intensity which is similar and commensurate with historic operations on site. By extension therefore the grounds of appeal argue that the proposal in this instance does not propose to increase the amount of plant and machinery operating as a result of the proposed extension. While I acknowledge that this may be the case in respect of extraction and processing of material on the subject site, the Board will note that the proposal also involves the relocation and introduction of a new readymix concrete plant. This readymix plant will involve the provision of aggregate storage bins, a conveyor, a cement silo and a mixing house. Each of these components are likely to give rise to additional noise and dust generation. Notwithstanding this point, I do note that the readymix plant is to be located near the southern boundary of the site close to the existing workshop and offices. At its closest point to the c.200 metres from the nearest residential dwelling. Other dwellings in the vicinity are located considerably further away in all cases in excess of 250 metres from the proposed readymix plant. Having regard to the separation distance involved and the fact that the proposed batching plant will be located within the confines of the existing quarry which will help attenuate noise propagation beyond the boundaries of the existing quarry, I am satisfied that the noise generated from the readymix plant will have a negligible impact on residual and ambient noise levels in the area.
- 11.2.4. I further note that the observation from residents in the vicinity of the subject site did not specifically raise any issues in respect of noise impact. The concerns raised in the observation were restricted to the issue of surface water discharge and flooding. This suggests that issues in relation to noise, dust and vibration were not significant or pertinent concerns in respect of residents living in the vicinity of the site.
- 11.2.5. I also note from my site inspection that the existing quarry operations on site did not give rise to any significant noise generation. Residual and ambient noise levels in the wider area were typical of that of a rural environment and that noise levels generated by the quarrying activity were inaudible in the wider area.

11.2.6. Finally, in relation to noise, I note that the further extension of the quarry involves the progressive movement of the quarry face in a westerly and northerly direction away from the nearest noise sensitive receptors which are primarily located to the east and south of the subject site. It would be reasonable to conclude in my opinion therefore that any further extension of the quarry will result in a diminished impact on nearest noise sensitive locations as the quarry extends away from these sensitive receptors.

11.2.7. A similar conclusion in my view can be reached in relation to dust. Progressive extraction rates further away from the nearest sensitive receptors will result in a reduction in level of fugitive dust at receptors to the east and south of the quarry. As in the case of noise, the proposed readymix plant would have the potential to generate increased levels of dust. However, the separation distances between the proposed plant and surrounding residents in excess of 200 metres should ensure that the potential in terms of dust is minimised. The fact that the readymix plant will be located on ground levels lower than the surrounding residents should also assist in entrapping and confining fugitive dust to within the boundary of the quarry. The quarry faces in this instance will eventually extend to 30 meters in height. In periods of prolonged dry weather, water sprays and water bowsers will be utilised. The provision of earthen berms around the perimeter will also assist in entrapping fugitive dust. I am therefore satisfied that the proposed development will have an acceptable impact on surrounding residential amenity in terms of air pollution and dust.

### **11.3. Traffic Transportation and Road Safety Issues**

11.3.1. The fourth reason for refusal argued that the traffic movements associated with the quarrying activity together with the recommendations of the road safety audit, which rely on the implementation of recommendations outside the site boundary, would endanger public safety by reason of a traffic hazard and would interfere with the safety and free flow of traffic on a narrow local road network.

11.3.2. In relation to this reason for refusal, the Board should have regard to the fact that the Planning Authority granted planning permission for the parent quarrying activity on site in 1984. The Board should also have regard to the fact that the proposed development relates to a continuation of extraction and processing at intensity levels

similar to those historically undertaken on the subject site. As such the proposed development will not result in an intensification of activity which would give rise to increases in traffic levels over and above the historic levels. In fact, as already pointed out, peak extraction levels during the height of economic activity amounted to some 390,000 tonnes per annum. What is envisaged under the current application is annual average output of 200,000 tonnes per annum just over half the historical peak. Based on the above I am satisfied that the proposed development will not give rise to traffic levels over and above those associated with existing and historic activities on site.

- 11.3.3. The Board has already determined that existing activities on site have not given rise to any significant adverse impact in terms of traffic safety considerations. I would generally agree that while the quarry is dependent on a local third class road network in the immediate vicinity, this network is generally adequate to accommodate two vehicles passing each other in opposite directions. Having inspected the site, I also considered that the site is afforded generally good sightlines in both directions although the road safety audit suggests that some improvements in this regard could take place.
- 11.3.4. In terms of traffic impact the EIS and the TTA (Traffic and Transport Assessment) submitted by way of additional information estimates that the quarrying activity will give rise to approximately 8 HGV units per hour. Based on my own calculation (25 tonne trucks) operating on six days of the week with an average annual output of 200,000 tonnes per annum, I estimate that with the readymix plant, trip generation may be slightly lower, in the region of 60 round trips per day, equating to approximately 6 trips per hour based on a 10 hour working day<sup>1</sup>. Having regard to the existing road network and traffic volumes on the road I consider this impact to be acceptable.
- 11.3.5. As already noted, the applicant as part of the unsolicited additional information submitted a road safety audit which also included the traffic and transport assessment. It carried out an assessment of collisions and traffic accidents in the wider area and these were found to be low. The assessment also carried out a

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<sup>1</sup> The EIS appears to base the trip generation on an 8-hour day.

junction capacity analysis and, as can be expected in a rural area, all roads serving the quarry development are operating well within capacity.

- 11.3.6. The Planning Authority's reason for refusal made specific reference to the road safety audit and in particular that the audit required works to be carried out on lands outside the appellant's control. The RSA submitted included a number of recommendations with regard to the improvement of the carriageway condition, improvements in sightlines, improvements in road signs marking and public lighting at the entrance of the quarry. These works in my opinion could all be carried out either by the applicant by way of condition or, in the case of the public thoroughfare outside the site, by Galway County Council. Should Galway County Council have deemed it appropriate, any works required specifically to facilitate the road network to cater for the development could be addressed by way of a special contribution under the provisions of Section 48(2)(c) of the Planning and Development Act, 2000. I do not consider that any evidence has been provided by the Planning Authority which demonstrates that works required under the road safety audit would impact on third party lands.

#### **11.4. On-Site Wastewater Treatment Issues**

- 11.4.1. The final reason for refusal cited by the Planning Authority states that the proposed development will be contrary to the EPA Code of Practice and would be prejudicial to public health. Currently wastewater is stored in a septic tank and is removed off-site on an intermittent basis by a licensed contractor. It may have been more appropriate for the applicant in applying for planning permission, to extend the proposed quarry to include proposals for a new on-site wastewater treatment system to cater for employees. Notwithstanding this point the Environment Department in assessing the application confirmed that the present system was acceptable for the present until a new on-site wastewater treatment system is installed. The applicant by way of unsolicited additional information submitted a Site Suitability Assessment for an on-site wastewater treatment plant. While it indicated that soils and subsoils on the site were shallow, the applicant proposed to install a proprietary wastewater treatment system with an imported subsoil of an appropriate T value in order to ensure that the requirements set out in the EPA Code of Practice were met. I consider that any such

proposal in the form of a new and separate planning application, could be evaluated on its merits. I therefore would not consider it appropriate to refuse planning permission for the reason set out by Galway County Council. Instead, in the event where An Bord Pleanála considered it appropriate to grant planning permission for the proposed development, I would recommend that a condition be attached requiring the applicant to submit an application for a proprietary wastewater treatment plant to cater for employees of the quarry within a specific timeframe possibly six months from the date of any such order. This would be particularly appropriate in light of the fact that the report from Galway Co. Council's Environment Department indicated that present wastewater treatment arrangements are suitable for the time being.

11.4.2. On this basis I do not consider that the Board should refuse planning permission on the grounds that the proposed development is prejudicial to public health as cited by the Planning Authority. Under the present arrangements wastewater is stored within an existing septic tank and is transferred off-site for treatment by a licensed contractor. As such contrary to what is stated in this reason for refusal the current wastewater treatment arrangements do not pose an unacceptable risk to surface and groundwaters as suggested in the reason for refusal.

## **11.5. Environmental Impact Assessment**

11.5.1. I am of the opinion that the EIS together with the unsolicited additional information submitted to the Planning Authority on 18<sup>th</sup> July, 2017 is comprehensive and generally complies with the statutory requirements set out in Article 94 and Schedule 6 of the Planning and Development Regulations 2001, as amended. I am satisfied that the documents submitted including the non-technical summary are generally in accordance with the requirements set out in EPA guidelines as they relate to environmental impact assessment. In my opinion the EIS has identified, described and assessed the likely significant environmental impacts arising from the proposed extension to the quarry and the assessment not only addresses direct impact but also addresses indirect impacts and potential interaction with other impacts including cumulative impacts. I have in my assessment above identified, described and assessed the likely significant impacts arising from the proposed development

particularly in relation to groundwater and surface water but also in relation to traffic, air pollution and noise impacts where appropriate. Where these issues and other issues have not been adequately evaluated and assessed in my assessment above they will be briefly evaluated in this section in the context of EIA legislation.

- 11.5.2. The EIS sets out in detail the project description both in relation to the extension proposed to the quarry and also the relocation of the readymix concrete plant on site.
- 11.5.3. Section 1.10 of the EIS sets out an assessment of alternatives. This assessment included alternative sites, alternative working methods, direction and phasing and alternative details in relation to design and restoration. The EIS also notes that there were no major technical difficulties encountered in compiling the required information.
- 11.5.4. Section 3.1 of the EIS specifically relates to the potential impact arising from the proposed development on human beings and land use. The potential adverse impacts on human beings relate mainly to nuisance and perceived nuisance arising from noise, dust, vibration, traffic and visual impact. These potential impacts are all assessed in subsequent chapters of the EIS. However, it is stated that no predicted significant impacts result from the proposed development in relation to human beings and land use. It is also noted that if the development does not proceed loss of employment will result.
- 11.5.5. Section 3.2 of the EIS specifically relates to flora and fauna. This section of the EIS sets out a detailed survey of the area in which it is proposed to extend the quarry. The existing habitats and flora, avifauna, mammals, amphibians, reptiles are detailed and described in the survey. The site generally comprises of improved grassland. The surveys indicate that there are no Annex I or Annex II habits or species located within the footprint of the development. Furthermore, there were no Red Data Book plant species or flora protection order species located within the footprint of the development. Only seven species of bird were observed in the immediate vicinity. The habitat is likely to support rabbit and foxes as well as numerous smaller mammals. No amphibians or reptiles are likely to occur on site. The predicted impacts arising from the proposed development are the removal of the existing habitat in order to make way for the quarry. It is concluded that there will be no



significant impact on fauna as a result of the proposed development and the site represents a small portion of the typical habitat of the area.

- 11.5.6. Section 3.3 relates to soils geology. The baseline environment is identified and described in the EIS. The bedrock geology is described as waulsortion limestone. These rocks comprise of grey massive unbedded fine lime mudstone. The quarrying of rock will have obviously a permanent impact on the local geology however this will be restricted to the area of extraction. The development will not have any indirect impacts on local or regional geology other than within the area of abstraction.
- 11.5.7. Section 3.4 of the EIS relates to surface and groundwater. The quarrying overlies an aquifer which is categorised as a 'locally important aquifer' which is 'moderately productive' only in local zones. It is suggested that the quarry and water management system make a significant contribution to ensuring a reduction of the risk of local flooding. Details of the existing surface water management regime is set out. The proposed working of the quarries do not extract below the water table and therefore the proposed development has no adverse impact on groundwater. It is stated that any discharge from the quarry will be pumped to surface watercourses in the vicinity only during appropriate periods when required. A number of mitigation measures will be incorporated to ensure that surface water discharge does not accentuate or exacerbate flooding in the area.
- 11.5.8. While the potential impacts on groundwater and surface water are identified and described in the EIS. As already referred to in my assessment above, I consider that the EIS could provide more quantified data in respect of potential surface water run-off rates and groundwater egress rates in order to provide a more comprehensive assessment in terms of the potential impacts arising from discharging water off-site.
- 11.5.9. Section 3.5 of the EIS relates to climate. Details of existing climatic conditions including precipitation are set. However, the EIS concludes that the proposed development is not of a sufficient scale or intensity to have any direct impacts on regional or micro-climatic conditions. Furthermore, no cumulative impacts with other developments in the area are likely to take place.
- 11.5.10. Section 3.6 of the EIS relates to air quality. The main potential environmental impact on air quality is identified as fugitive dust. This will arise in the quarrying activities such as extraction processing and transportation. While this is described as inert and

harmless in a chemical context, the potential adverse impact arises on residential amenity. Dust monitoring stations at the perimeter of the site indicate dust deposition levels ranging between 188 mg/m<sup>3</sup>/day to 266 mg/m<sup>3</sup>/day. This is below the threshold limit using the bergerhoff standard method which permits a limit of 350 mg/m<sup>3</sup>/day. Mitigation and monitoring levels will be employed to ensure that measurements stay below this limit.

- 11.5.11. Section 3.7 of the EIS relates to noise and vibration. Excessive noise and vibration are identified as the potential adverse impacts that could arise from the proposal. Baselines studies identify the existing noise environment and the EIS indicates that the quarry is operating within acceptable noise limits. The EIS reasonably concludes that, as the quarry activities are moving further away from the nearest noise sensitive receptors, the noise level will not increase as a result of the activities proposed.
- 11.5.12. Section 3.8 of the EIS relates to landscape and visual assessment. The landscape and visual assessment sets out the existing landscape setting and describes the landscape character of the area. The main visual impact is identified and described as the removal of natural landscape in order to cater for the extraction activities. However, the assessment concludes that there are no significant visual or landscape impacts as the quarry is screened by a combination of natural topography screening berms, planted tree screens and existing hedgerows. The visual impact is not deemed to be significant and will not result in the further deterioration of the landscape as a result of the proposed development. Processing plant and machinery will continue to be located on the lower and first bench of the quarry and will not be visible from public vantage points. The quarry development is not located within any protected landscape and will not interfere with any view or prospect listed for protection in the development plan. There are no indirect or cumulative impacts arising from the proposal. A number of photographs are attached assessing the potential impact from a visual point of view.
- 11.5.13. Section 3.9 of the EIS relates to cultural heritage. This proposal considers the impact on cultural heritage on the immediate locality and in the wider area. The potential impact arising from the proposal is identified and described as the removal or interference with archaeological or historical remains in the area. In preparing this section of the EIS, a walkover survey of all lands contained within the site was undertaken. The EIS concludes that baseline archaeological research has shown

that there are no recorded archaeological sites within or close to the application site. The only recorded site is located to the south-east and is classified as an “redundant record”. Two RMP sites are located within 300 metres of the landtake including a ringfort approximately 250 metres from the development area. The proposal will not impact on the integrity or setting of these monuments. It is concluded therefore that the proposed development will have no impact on the cultural heritage of the area.

- 11.5.14. Section 3.10 of the EIS relates to material assets. The assessment identifies the potential impact in terms of material assets to incorporate building structures, infrastructure, farm and forestry land and the local transport network. The area in which the quarry is located is described as ‘rural’ in character. No issues arise in respect of noise, vibration, dust, traffic or visual impact. The proposal will not impact on the local road network to any significant degree. The proposal will not give rise to any significant demand for utilities and will not result in any loss or damage to water supplies, archaeology, ecology or geological heritage. It is therefore concluded that the proposal will have no significant direct or indirect impacts.
- 11.5.15. Section 3.11 relates to traffic. This section of the EIS identifies traffic routes and traffic volumes associated with the proposed development. There is no evidence that there has been or is likely to be any significant environmental impacts on the local road network and it is not considered that the upgrade of the local road network is necessary. This section of the EIS should also be read in conjunction with the traffic and transport assessment and the road safety audit submitted by way of unsolicited additional information. Neither the TTA nor the RSA identify any significant environmental impacts arising from the proposed extension.
- 11.5.16. The final section of the EIS sets out details of the interaction of the foregoing. The significant impacts arising from the interaction of the sections described above are deemed to be slight to negligible impacts and in the case of human beings, a positive impact. In conclusion therefore I consider that the contents of the EIS together with the additional information submitted by the applicant is adequate and comprehensive enough to carry out a full environmental impact assessment arising from the proposed development. Furthermore, based on my own assessment I would generally agree with the conclusions set out in the EIS that the proposed development would not have a significant adverse impact on the receiving environment either individually or cumulatively, directly or indirectly during the

operational phase of the proposed development and that the EIS incorporates appropriate mitigation and monitoring measures to ensure that any environmental impact is minimised. I therefore consider that the residual impacts arising from the proposal would not be material and would be acceptable.

## 12.0 **Appropriate Assessment**

- 12.1.1. The application was accompanied by an NIS. It included an AA Screening Report and this report concluded that the potential impact upon Natura 2000 sites cannot be ruled out and therefore on foot of this conclusion a Stage 2 Appropriate Assessment was carried out. The potential Natura 2000 sites which could be adversely impacted upon are identified in the NIS as being the Lough Derg North-East Shore SAC (Site Code: 002241) and the Lough Derg (Shannon) SPA (Site Code: 004058).
- 12.1.2. The NIS also identified the closest Natura 2000 sites to the appeal site. These are the Lough Rea SAC (Site Code: 000304) and the Lough Rea SPA (Site Code: 004134) both of which are located c.2.7 kilometres to the south-west of the quarry. Other Natura 2000 sites in the vicinity identified in the NIS include the Slieve Aughty SPA which at its closest point is c.3.6 kilometres away, the Peterswell Turlough SAC – 15.4 kilometres away and the Sonnagh Bog SAC which is located c.11 kilometres away. However, the NIS in my view correctly concludes that in the case of the above Natura 2000 sites there is no hydrological or ecological link between the subject site and the above Natura 2000 site network and therefore there is no source-pathway-receptor link between the subject site and the Natura 2000 sites in question. This together with the separation distances involved between the subject site and the Natura 2000 sites implies that any potential threat arising from the proposed development can be discounted.
- 12.1.3. The Lough Derg North-East SAC and the Lough Derg (Shannon) SPA are both located at greater distance away than the Natura 2000 sites referred to above at over 19 kilometres from the subject site. However, these two Natura 2000 sites do share a hydrological link with the subject site and this link is referred to in the Planning Authority's second reason for refusal. There are identified pathways between the proposed development and the latter two sites. The NIS however

outlines a number of mitigation measures which, if implemented will ensure that the proposed extension will in no impact on the integrity of the Natura 2000 sites. On foot of this assessment the NIS concludes that the proposal will have no impact on the network of Natura 2000 sites.

12.1.4. For the purposes of undertaking a robust and comprehensive assessment and to specifically address the second reason for refusal cited by the Planning Authority, I propose to carry out a separate independent appropriate assessment for the proposed development before the Board.

12.1.5. I would fully concur with the NIS submitted that while there are number of Natura 2000 sites in reasonable proximity to the subject site and these include:

- The Lough Rea SPA and SAC.
- The Slieve Aughty SPA.
- The Sonnagh Bog SAC.
- The Peterswell Turlough SAC.

12.1.6. However, none of these Natura 2000 sites are in any way connected hydrologically or ecologically with the subject site and as such there is no potential arising from the proposed development to impact on the qualifying interest/features of interest associated with the above SACs. I further note that none of the above sites were specifically referred to in the Planning Authority's second reason for refusal.

12.1.7. The only Natura 2000 sites which could potentially be affected by the proposed development are the two Natura 2000 sites identified in the NIS as being hydrologically linked via a series of streams which feed into the Duniry and Cappagh River which discharge into Lough Derg located c.20 kilometres away. The Lough Derg North-East Shore SAC (Site Code: 002241) has the following qualifying interests:

- *Juniperus communis* formations on heaths and calcareous grasslands.
- *Calcareous fens with cladium mariscus* and species of the *caricion davallinae*.
- *Alkaline fens*.

- *Limestone pavements.*
- *Alluvial forests with alnus glutinosa and fraxinus excelsior.*
- *Taxus baccata woods of the British Isles.*

12.1.8. The above qualifying interests are all habitats and do not relate to any species and most importantly do not relate to any aquatic species. The only potential impact that could arise from the proposed development relates to an adverse impact on water quality downstream as a result of water discharges with excessive siltation or suspended solids. The proposal in this instance will incorporate a number of settlement ponds prior to discharge. In addition, any surface water run-off collected within the quarry will also allow for settlement in the sump area prior to being discharged to the settlement ponds and off-site. Any suspended solids in the eventual discharge is therefore likely to be low and the assimilative capacity of the receiving waters in the stream and rivers leading to the Natura 2000 sites will also assist in diluting any potential pollution impacts prior to reaching the Natura 2000 sites c.20 kilometres downstream.

12.1.9. The EIS also notes that EPA records indicate that the Duniry River into which waters from the quarry eventually drain, has been awarded a Q rating of 4 which represents 'good status'. This suggests that waters flowing into Lough Derg are relatively unpolluted from the river in question. Having regard to the fact that the qualifying interests associated with the SAC are habitat related and do not involve any aquatic species, together with the treatment to be undertaken at the quarry site, the assimilative capacity of the receiving waters and the separation distances between the subject site and the Natura 2000 network, it cannot be reasonably argued in my view that any discharge from the quarry would pose a threat to the Lough Derg North-East Shore SAC.

12.1.10. I also consider that a similar conclusion can be arrived at in respect of the Lough Derg (Shannon) SPA. The features of interest associated with this SPA are:

- The Cormorant.
- The Tufted Duck.
- The Golden Eye.

- The Common Tern.
- Wetlands and water birds.

12.1.11. As is the case of the SAC, it cannot be reasonably argued in my view that any discharge from the proposed development will affect the water quality in Lough Derg and as such the proposal will not have any direct or indirect impact on the features of interest listed for the Lough Derg (Shannon) SPA in terms of impacts on feeding grounds etc. Also the subject site is located a sufficient distance from SPA to ensure that there is no direct impact on bird populations associated with the SPA.

12.1.12. Finally in relation to this issue, I note that the Board carried out a robust and comprehensive appropriate assessment in respect of the substitute consent application. Specifically, in relation to appropriate assessment, the Board considered that *'the surface water management system in operation within the quarry and the discharge of treated water southwards into the Moanmore East Stream which in turn drains into the Duniry River and Cappagh River and on into Lough Derg. The Board concluded that the discharge of waters from the quarry over this distance did not and would not give rise to any adverse impact on the Natura 2000 network referred to above. In reaching its conclusion the Board also had regard to the distance to and the absence of any potential connectivity with other European sites'*.

12.1.13. I consider this conclusion to be reasonable and the same conclusions would apply to the proposed extension which would involve the continuation of an extraction at a similar intensity to that historically undertaken on the site. It appears that the Planning Authority did not take into consideration the Board's previous conclusions in respect of appropriate assessment and furthermore the Planning Authority in my opinion fail to specifically refer as to how the proposed development in this instance would pose a threat to the qualifying interests/features of interest associated with the 2 Natura 2000 sites referred to in the second reason for refusal.

12.1.14. In conclusion therefore I consider it reasonable to conclude on the basis of the information on file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment that the proposed development individually or in

combination with other plans or projects would not adversely affect the integrity of Lough Derg North-East Short SAC (Site Code: 002241) and Lough Derg (Shannon) SPA (Site Code: 004058) or any other European site in view of the site's conservation objectives.

## **13.0 Conclusions and Recommendation**

- 13.1. Arising from my assessment above I consider that having regard to the established use of the site as a quarry and the fact that the proposed extension would result in the extension of the quarry face away from existing dwellings in the area and therefore would have an acceptable impact on surrounding residential amenity in terms of noise and air quality. I am also satisfied that the proposed development would be acceptable in terms of traffic safety and convenience as no material intensification of use would occur in this instance. I am also satisfied that the NIS submitted with the application together with my own appropriate assessment has adequately demonstrated that the proposed development will not adversely impact upon any of the qualifying interests/features of interest associated with any of the Natura 2000 sites in the wider area and finally I am satisfied that any issues in relation to on-site wastewater treatment arising from the quarrying activities could be adequately dealt with by way of condition.
- 13.2. I do however share the Planning Authority's concerns that both surface water and groundwater arising from the proposed quarry extension could give rise to excessive amounts of water discharge off-site which could exacerbate and accentuate the threat of flooding particularly having regard to the fact that lands in the vicinity of the subject site are prone to flooding. I therefore recommend that the decision of Galway County Council be upheld in this instance and that planning permission be refused for the sole reason set out below.

## **14.0 Decision**

Refuse planning permission for the proposed development based on the reasons and considerations set out below.



## 15.0 Reasons and Considerations

Having regard to the flooding history in the vicinity of the site, the Board is not satisfied that the proposed quarry extension will not give rise to increased levels of groundwater and surface water egress into the quarry. It is considered that the increase in water discharge rates arising from the development has the potential to exacerbate flood risk within the area, particularly in the absence of the implementation of the proposed flood alleviation scheme for the wider area.

Furthermore, the Board considered the proposed extension to be premature pending the granting of a licence to discharge to surface waters therefore, the proposed development is considered to be contrary to the proper planning and sustainable development of the area.

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Paul Caprani,  
Senior Planning Inspector.

19th December, 2017.