



An  
Bord  
Pleanála

## Inspector's Report ABP-303424-19

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<b>Development</b>	Extract sand and gravel over an area of ca. 2.0 hectares, An EIS (now referred to as an Environmental Impact Assessment Report (EIAR), and a Natura Impact Assessment (NIS) are submitted.
<b>Location</b>	Ironmills (or Kilrush), Ballinakill,, Co. Laois
<b>Planning Authority</b>	Laois County Council
<b>Planning Authority Reg. Ref.</b>	18419
<b>Applicant</b>	Wholesale Suppliers Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party v Grant
<b>Appellants</b>	John & Patrick Staunton
<b>Date of Site Inspection</b>	5 <sup>th</sup> , June 2019
<b>Inspector</b>	Paddy Keogh

## 1.0 Site Location and Description

- 1.1.1. The site of the proposed development is located in the rural townland of Ironmills c. 3km south-east of the town of Ballinakill. The site of the proposed extraction area has a stated area of c. 2 hectares. The site forms part of a larger site. The remainder of the site consists of an existing worked out sand and gravel quarry. The entire site (proposed excavation area combined with worked out quarry) has a stated area of 3.6 ha. The northern boundary of the proposed extraction area is formed by the face of the worked out quarry. The western boundary of the proposed excavation area also adjoins part of the worked out quarry. The proposed extraction area is at a significantly higher level than the worked out quarry.
- 1.1.2. The proposed excavation area and existing worked out quarry form part of a larger landholding in the ownership of the Applicant (outlined in blue on submitted site layout plan). The boundaries of the landholding (including the western roadside boundary with the L1738-0) are generally defined by mature hedgerow planting.
- 1.1.3. There are significant stockpiles of graded material stored within the site together with a number of machines used for quarrying.
- 1.1.4. Parts of the site are overgrown with brambles and scrub. It would appear that there has been no recent quarrying activity on the site.
- 1.1.5. The Applicants landholding (outlined in blue) includes a worked out quarry on the opposite side of the local road (L1738-0) and served by an independent entrance and a short distance to the south of the site [This area does not form part of the current application].

## 2.0 Proposed Development

- 2.1. The proposed development involves:
  - Extract sand and gravel (above the water table) over an area of c. 2 hectares, including the construction of overburden storage and landscape screening mounds along the perimeter of this extraction area;
  - On-site dry processing (dry screening) of aggregate;
  - Construction of a wheel wash and the erection of portable welfare facilities;

- Re-use of the existing site entrance;
- Progressive and phased restoration throughout the life of the development.

An Environmental Impact Statement Report (EIAR) and a Natura Impact Assessment (NIS) accompany the application to the planning authority.

The proposed quarry will have a life span of between 8 and 10 years. A total volume of c 320,000 cubic metres (or 610,000 tonnes) of extractable material has been estimated over the life span of the application site.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Notification of a decision to grant planning permission for the proposed development subject to 34 conditions was issued by the planning authority per Order dated 10<sup>th</sup>, December 2018.

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

Report dated 5<sup>th</sup>, September 2019 includes:

- Proposal to extend an existing aggregate quarry is consistent with Development Plan policy and is acceptable in principle.
- The proposed development and impacts as described in the submitted EIAR are generally deemed to be acceptable, save in respect of the following matters:
  - Restricted sightlines in a northerly direction at the existing entrance can be improved. The Applicants have not indicated achievable sightlines on the submitted layout plan.
  - Baseline information in relation to noise measurement was taken at four points, including at the closest five dwellings. Third party observations received by the planning authority raise concerns in relation to the methodology used in this assessment

(The Applicant should be given the opportunity to address these concerns).

The Planner's report dated 5<sup>th</sup>, September 2018 recommended that the Applicant be requested to submit 4 items of further information viz. (1) improved sight lines in northerly direction at the quarry entrance, (2) impact on groundwater – particularly with regard to the well marked BH3 on the lodged drawings, (3) the methodology applied in the assessment of noise impacts and (4) the stability of two remaining columns on the worked out quarry floor.

A second Planner's Report dated 7<sup>th</sup>, December 2019 (following the receipt of further information) states that (1) the Area Engineer has no objection to the proposed development based on revised details in relation to the redesign of the site entrance and improved sightlines, (2) the Applicant proposes to provide an additional monitoring well (BH 4) adjacent to a currently blocked well (BH3), (3) The Applicant has robustly defended the methodology chosen for the baseline noise assessment on site and (4) The Applicant has explained that the two remaining columns within the quarry are 'clinker' columns (cemented material that cannot be easily excavated or broken down). These columns are stable insofar as they have an inherent strength that they have undergone cementation. The Applicant proposes to fence the columns with catch berms around the base.

The Planner's Report concludes that the proposed development is acceptable and recommends that planning permission be granted subject to conditions.

The planning authority decision is in accordance with the Planner's recommendation.

### 3.2.2. Other Technical Reports

**Roads Design** – Report dated 24<sup>th</sup>, August 2018 indicates no objection to the proposed development subject to conditions.

**Environmental Health Officer** - Report dated 15<sup>th</sup>, August 2018 indicates no objection to the proposed development subject to conditions.

**Assistant Chief Fire Officer** – Report dated 31<sup>st</sup>, August 2018 indicates no objection to the proposed development.

### 3.3. Prescribed Bodies

**Inland Fisheries Ireland** – Report dated 16<sup>TH</sup>, August 2018 indicates no objection to the proposed development subject to conditions.

**Transport Infrastructure Ireland** – Report dated 10<sup>th</sup>, August 2018 states that TII have no observations to make on the proposed development.

### 3.4. Third Party Observations

**John & Patrick Staunton** (current Appellants)

This submission dated 16<sup>th</sup>, August 2018 (from adjoining land owners) includes:

- The Visual Impact Assessment submitted by the Applicants includes photographs taken during the summer months only.
- Loss of hedgerows associated with the proposed development.
- The operation of the existing quarry has impacted upon groundwater levels in the quarry. A more fulsome assessment on the impact on groundwater is required.
- A more fulsome assessment in respect of noise impacts from the proposed development is required.

## 4.0 Planning History

**Reg. Ref. 91/274** - Planning permission was granted by the planning authority to Wholesale Suppliers Ltd. to develop sandpits at Ironmills, Ballinakill, Co. Laois, subject to 26 conditions, per Order dated 19<sup>th</sup>, November 1991.

Condition No.1 stated:

This permission shall be for a period of 4 years. At the end of this period the proposed use shall cease.

Condition No. 2 stated:

This permission shall be restricted to the area hatched in red on the accompanying map and no excavation operations of any kind shall take place outside the curtilage of the site as hatched in red.

*[The area hatched in red on Drg. No. 274/91 wrapped around the northern and western boundaries of the excavation area proposed in the current application/appeal]*

Condition No. 3 stated:

Topsoil shall be stripped and stockpiled separately for use in the final restoration of the site. The remaining overburden shall also be stockpiled for use in the contouring of the site for final restoration.

Condition No. 22 required the lodgement of a bond in the sum of £40,000 in respect of the making good of any damages caused in the development.

**PA Ref. QY 114** - Registration of the quarry found that the existing extracted area, falling within the red line boundary of the current application, was part of the site that received planning permission under Reg. Ref. 91/274

**UD18/49** - Enforcement action commenced (Warning letter issued) by the planning authority in respect of non-compliance with the conditions of 91/274. This action was commenced at the instigation of the landowner.

**UD13/05** – Enforcement proceedings issued by the planning authority in respect of the quarry on the opposite side of local road L1738-0 with an entrance further south than the quarry that is the subject of the current application (both quarries in the same ownership). The quarry was found to be operating without the benefit of planning permission. This quarry is no longer in operation and the enforcement proceedings file has been closed.

**ABP. Ref. QB0803** – The decision in this matter records ‘no review received’.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The operative Development Plan is the Laois County Development Plan 2017-2023.

- 5.1.2. Policy RUR8 of the Development plan seeks to *‘Support, in principle, the expansion of the aggregates and concrete products industry which offers opportunity for employment and economic development generally subject to environmental, traffic and planning considerations and ensure that any plan or project associated with extractive industry is subject to Appropriate Assessment screening in accordance with the Habitats Directive and subsequent assessment, as required.’*
- 5.1.3. Policy RUR9 seeks *‘To support the necessary role of the extractive industries in the delivery of building materials for infrastructural and other development and to recognise the need to develop extractive industries for the benefit of society and the economy’.*
- 5.1.4. Policy RUR10 seeks *‘To secure the long term supply of value-added products (such as concrete products and asphalt which are often, but not always, produced in conjunction with aggregate extraction’.*
- 5.1.5. Policy RUR11 seeks *‘To support, in principle, the processing of minerals to produce cement, bitumen or other products in the vicinity of the source of the aggregate, where the transport network is suitable to reduce trip generation’.*

## **5.2. Natural Heritage Designations**

The River Barrow & River Nore Special Area of Conservation (SAC) (Site Code 002162 ) is located c. 1.8 km from the site.

The Lisbigney Bog SAC (Site Code 000869 ) is located c. 4km from the site.

The River Nore Special Area of Protection (SPA) (site Code 004232) is located c. 3.2 km from the site.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The submitted grounds of appeal include:

- The proposed development essentially allows for the extension of an existing sand and gravel pit. The initial sand and gravel quarry phases were permitted under Reg. Ref. 82/512 and Reg. Ref. 91/274.

- The Applicant has failed to adhere to the requirements of conditions attached to previous planning permissions with regard to restoration of the land post development and aftercare.
- The planning authority have failed to adequately address the potential for undermining of surrounding lands associated with the existing quarry activity.
- The existing quarry has significant sloping on all sides which has resulted in the loss of hedgerow to lands along the western boundary. Lost hedgerow has been replaced with boundary fencing. This has resulted in loss of hedgerow habitat. Any extension to the quarry will result in further loss of hedgerow.
- The planning authority acknowledge that a restoration plan in respect of the original quarry has been received. However, the report from the Area Planner states that the issue regarding the restoration of the original quarry should be dealt with under separate enforcement proceedings rather than as part of the current application.
- It is submitted that an extension of the quarry should not be permitted until the Applicant has complied with their legal requirements under the rehabilitation and restoration condition attached to Reg. Ref. 91/274.
- Condition No. 24 attached to the planning authority notification to grant planning permission for the proposed development requires that the site be reinstated (after quarrying activities cease) in accordance with a submitted Reinstatement Methodology. The reinstatement is to be completed over a 2 year period after the cessation of quarrying activity. The submitted EIAR indicates that quarry will generate 40 truck movements per day during the operation phase. If a similar volume of inert material to that extracted (c. 700,000 cubic metres) is transported back to the site for reinstatement of the site over a 2 year period a fivefold increase in truck movements will occur during this 2 year period.
- A Waste Licence from the EPA would be required if the extensive volume of material needed to reinstate the quarry if the volume of material being used exceeds the criteria set out in the Waste Management (facility Permit and Registration) Regulations 2007.



## 6.2. Applicant Response

A submission from the Applicant (prepared by Golder Associated Ireland Ltd.) dated 8<sup>th</sup>, February 2019 includes:

- The Appellants have not stated where undermining and loss of land, if any, in the ownership of the Appellants has occurred. A review of historical photography from Ordnance Survey Ireland (OSI) and Land Direct does not indicate that any of the Appellants land has been lost nor does there appear to be any sign of cracking or collapse near the boundary over time.
- Where c. 13m of hedgerow (from a total of c. 160m) within the Applicants landholding was previously removed, the area has recently been fenced, reinstated and planted with native whitethorn.
- The Applicant is committed to maintaining boundary hedges, where possible. It is acknowledged that the proposed development will result in loss of hedgerow to the south of the existing quarry as the development progressed across that field boundary. However, the Restoration Plan submitted as part of the planning application proposes the additional planting of native species and the creation of sand martin habitats in previously exposed faces, thereby leading to a net positive impact in terms of an increase in biodiversity of the area compared to surrounding agricultural lands.
- The Applicant is currently undertaking restoration of the existing quarry development based on a restoration plan for the existing quarry agreed with Laois Co. Council dated 12<sup>th</sup>, June 2018 (copy of letter from Laois Co. Council accompanies the submitted response on behalf of the Applicant).
- This plan was agreed with the planning authority prior to the lodgement of the current application (and following enforcement action). The restoration plan involves the planting of native species and the creation of sand martin habitats thereby leading to an increase in biodiversity in the area.
- The Appellant has misinterpreted the contents of the EIAR in relation to traffic volumes generated by the proposed development and proposals for reinstatement of the site at the end of the current quarrying operations. The proposed quarrying activity will generate a steady 40 truck movements per

day during the operation phase. During the operation phase material stripped and not suitable to be sold as aggregate will be stockpiled for use in the rehabilitation of the site and grading of slopes following completion of quarrying activities. It will not be necessary to import material to the site for the purposes of rehabilitating the site. It is not proposed that the entirety of the site will be brought back to extant levels. There will be no requirement for an EPA Waste Licence in circumstances where there will be importation of material to the site for restoration.

- The EIAR states that the resource at the site is c. 320.00 cubic metres. The proposed development involves the extraction of c. 70,000 tonnes per year for between 8 and 10 years. Reference in Condition No. 35 of the planning authority notification of decision to grant planning permission to 70,000 cubic metres per year (rather than tonnes) is in error.

### **6.3. Planning Authority Response**

None

### **6.4. Further Response from Appellant**

A submission from the Appellants dated 19<sup>th</sup>, March 2019, in response to the submission on behalf of the Applicant dated 8<sup>th</sup>, February 2019, includes:

- Photographic evidence (historic) submitted on behalf of the Applicant indicates that there was previously a good buffer area between the quarry area and the boundary with the Appellants lands. This buffer existed until about 6 years ago when the Applicant removed gravel within the site right up as far as the site boundary. The Appellants use the neighbouring field for silage production. In recent years the Appellants have been forced to instruct silage contractors to keep a distance from the boundary hedgerow in the interests of health and safety (to avoid the risk of collapse as a result of heavy cutting machinery being used too close to the boundary with the excavated quarry). Thus, the Appellants have suffered a loss in terms of a reduction in the accumulation of winter feed.
- The section of hedgerow previously removed has recently been replanted with whitethorn. However, this replanting has taken place on the Appellants (not

the Applicants) side of the boundary. The original hedgerow was lost as a consequence of subsidence resulting from the Applicants activities.

- The Applicants acknowledge that the proposed development will result in loss of hedgerow to the south of the existing quarry. Any boundary hedgerow between two landholdings is owned on a 50/50 basis. It is not at the discretion of one boundary owner to remove a hedgerow. Any loss of hedgerow on land bordering the Appellants lands is unacceptable to the Appellants.
- Any loss of hedgerow will result in a loss of foraging areas and natural corridors for wildlife.
- No planning permission for further quarrying at the site should be granted prior the restoration plan for the original quarry being fully implemented.
- The restoration plan for the proposed quarry will result in reprofiling of the land in a manner that is out of character with the original character of the landscape in the area.
- The EIAR states that overburden material will be used for the construction of screen berms on the site. The Appellants query the Applicants assertion that it will be possible to reprofile the slope edges of the site (and provide for the construction of screen berms) without importing material into the site.
- If there is an error in relation to the total volume of material to be excavated contained in Condition No. 25 of the planning authority notification of decision to grant planning permission the error should be rectified by the Board.

## 7.0 Assessment

- 7.1. I note at the outset that the planning authority Planner's Report dated 5<sup>th</sup>, September 2018 states that the quarry was registered under Section 261A of the *Planning and Development Act, 2000*, as amended. The only Board record relating to this quarry that I can find is QB 0803 which records a decision of 'no review received' by the Board. Thus, it appears that the reference to registration under Section 261A may be in error and, in fact, the quarry was registered under 261 by the planning authority. The planning authority have accepted that the proposed development

related to an authorised quarry. In the circumstances, I consider that no issue arises in respect of substitute consent.

7.2. I consider that the key issues arising out of the submitted grounds of appeal are as follows.

- (1) Failure by the Applicant to comply with Conditions attached to previous permission.
- (2) Potential undermining of Appellant's land.
- (3) Loss of Hedgerow
- (4) EPA Waste Licence
- (5) Traffic Volumes

Appropriate Assessment and Environmental Impact Assessment also need to be addressed.

**(1) Failure by the Applicant to Comply with Conditions attached to previous permission.**

7.2.1. The submitted grounds of appeal argue that no planning permission should be granted for further quarrying activity at this location until such time as the Applicant has fully complied with conditions attached to previous planning permissions. In this regard, the grounds of appeal highlight the fact that conditions attached to previous grants on planning permission (including most recently Reg. Ref. 91/274) in respect of the restoration and reinstatement of the site following the completion of the permitted quarrying operation phase.

7.2.2. It has been submitted on behalf of the Applicant, in response, that the failure to comply with conditions attached to Reg. Ref. 91/274 in respect of the restoration and rehabilitation of the site have been the subject of recent enforcement proceedings by the planning authority and that the restoration, regrading and rehabilitation of the boundaries of the previously excavated quarry is currently being carried out in accordance with a rehabilitation plan that has been agreed to between the Applicant and the Planning Authority.

- 7.2.3. The planning authority has indicated (Planning Officer's Report dated 5<sup>th</sup>, September 2018) that the enforcement proceedings in respect of the restoration and rehabilitation of the site of the previous phase of quarrying activities at this location were instigated at the initiative of the Applicant. This action on the part of the Applicant may have been motivated by a desire on the part of the Applicant simply to clear the way for a more favourable consideration of the current application in respect of further quarrying at this location. Nonetheless, I consider that it indicates a degree of bone fides on the part of the Applicant in relation to the regularisation of quarrying activities at this location.
- 7.2.4. The Appellant is anxious to ensure that no further quarrying be permitted at this location until all of the conditions of the historic permission (relating to restoration and rehabilitation of the site) have been fully concluded.
- 7.2.5. I note the provision of Section 35 of the *Planning and Development Act, 2000*, as amended in relation to 'bad record' developers' and the refusal of planning permission on the grounds of past failure to comply with the conditions attached to a planning permission. However, I consider that in the current instance a refusal of planning permission on such grounds would be disproportionate and unwarranted in circumstances where the planning authority has taken appropriate enforcement action and works to ensure compliance with the conditions attached to a previous grant of planning permission have already commenced. Ultimately responsibility for monitoring progress and ensuring compliance with the terms of a planning condition rests with the planning authority.

**(2) Potential for undermining of Appellants land**

- 7.2.6. The submitted grounds of appeal argue that the excavation previously carried out in close proximity to the Appellants lands as part of the earlier phase of quarrying activity at this location has resulted in a situation where the Appellant cannot cut silage in the area of his land in close proximity to the face of the excavated quarry because he is fearful of land slippage if he were to use heavy machinery close the quarry edge. Thus, on health and safety grounds the Appellant cannot fully utilise his land as a consequence of previous quarrying activity.
- 7.2.7. In my opinion, in circumstances where (as it appears from the documentation on file) the previous quarrying activity on the site was carried out within an area permitted

under the terms of a previous planning permission there is no remedy available under planning legislation to redress the negative impact of the previous quarrying activity on the Appellants lands. Furthermore, I note that the Appellant, while highlighting a fear of using heavy machinery close to the face of the quarry, has not provided any evidence in support of this fear. I consider that any issue that arises in terms of economic loss to the Appellant in this regard, based on previous quarrying activity, constitutes a civil matter between the parties.

### **(3) Loss of Hedgerows**

- 7.2.8. The submitted grounds of appeal refer to loss of hedgerow (and the replacement with a wooden fence) along the western boundary of the site associated with the historic quarrying activity at this location. The grounds of appeal refer to the negative impact of this development in terms of loss of visual amenity and loss of foraging habitat for wildlife. The appellant is also concerned in relation to the removal of hedgerow along the southern boundary of the site in the course of the proposed quarrying activity. The Appellant states that this hedgerow is along a shared boundary between the Applicants and the Appellants lands and should not be removed without the consent of the Appellant.
- 7.2.9. The Applicant acknowledges that a 13m section of hedgerow was removed in the course of the previous quarrying activity at this location. However, it is stated that the hedgerow that was lost has now been replaced using native whitethorn trees. Furthermore, it is stated that a restoration plan including slope reprofiling and planting together with planting along the boundaries of the site of the previous quarrying activity (that is currently being implemented in accordance with a scheme that has been agreed with the planning authority) will provide adequate compensation for the loss of habitat and biodiversity arising as a consequence of the removal of 13m of hedgerow.
- 7.2.10. On balance, I consider that the implementation of the site restoration plan for the original quarrying area will adequately repair the previous damage to the hedgerow along the western boundary of the site and will provide adequate habitat for wildlife and the maintenance and improvement of biodiversity at the site.
- 7.2.11. The Applicant is not entitled to remove hedgerows that are located (or partly located) outside lands within his ownership and control. In this regard, I consider that any

issue that arises in the course of future excavation in relation to hedgerow removal or replanting on lands not within the Applicants ownership and control constitute a civil matter between the parties involved and are not matters for determination within the scope of Planning and Development legislation.

#### **(4) EPA Waste Licence**

7.2.12. The submitted grounds of appeal argue that the implementation of the Rehabilitation plan for the site following the completion of extraction may necessitate the importation of significant quantities of fill material such that the requirement to obtain a Waste Licence from the EPA would be triggered.

7.2.13. The Applicant has clarified that the restoration of the site following the completion of extraction (c. 8 to 10 years) will be carried out over a two year period. Excavated material not suitable for sale as aggregate will be stored in mounds within the site and used for the regrading of slope faces following excavation. It will not be necessary to import material into the site for the purposes of regrading, rehabilitation and restoration of the site after the operation of the quarry has ceased.

I note that material to be used in the construction of berms to screen the site in the interests of visual amenity (as indicated in the submitted EIAR) will only be required during the operation phase of the quarry. Thus, this material can be reused in combination with other stored material in the reprofiling and regrading of the quarry sides as part of the Rehabilitation plan. On balance, I consider that even in the event that it proves necessary to import top soil into the site to supplement material available following the completion of extraction, the quantity of such material, if any, is likely to be low and not of a volume that would trigger a requirement for a Waste Licence from the EPA,

#### **(5) Traffic Volumes**

7.2.14. The submitted grounds of appeal suggest that the restoration phase of the quarry following the cessation of excavation works will involve large volumes of truck movements into and out of the site in order to import material needed to restore the site. The Applicant has clarified that it will not be necessary to import any material into the site in order to complete the site plans for the restoration and rehabilitation of the site. The volumes of material to be imported into the site suggested in the submitted grounds of appeal reflect a mistaken belief that ground levels within the

site would be restored to their pre-quarrying levels together with a erroneous estimate of the volume of material to be removed from the site based on Condition No. 35 of the planning authority notification of decision to grant planning permission referring (in error) to volumes of excavated material in cubic metres rather than in tonnes.

7.2.15. Undoubtedly it will be necessary for some truck movements into and out of the site to occur in relation to the implementation of the rehabilitation and restoration of the site following the operation phase of the quarry. However, even if it ultimately proves necessary to import a limited amount of fill material and top soil, it seems clear that the number of truck movements will be limited and certainly significantly less than the number of movements associated with the operation phase of the quarry.

### 7.3. **Environmental Impact Assessment Report (EIAR)**

7.3.1. The proposed development has a stated area of c. 2 hectares. The proposed development combined with the existing quarry area adjoining the site of the proposed development has a stated area of 3.6 hectares. Schedule 5, Part 2 of the *Planning and Development Regulations 2001* stipulate that the preparation of an EIAR is a mandatory requirement in the case of the extraction of stone, gravel, sand or clay where the extraction area exceeds a threshold of 5 hectares. The proposed development (even in combination with the existing quarry does not exceed this threshold). Nonetheless, a sub-threshold EIAR (prepared by JBA Consulting) has been submitted with the current application.

#### 7.3.2. PROPOSED DEVELOPMENT

The proposed development can be summarised as follows:

- The processing of aggregate (Dry screening of aggregate products and the periodic crushing of oversize material by mobile-contract crusher; aggregate will be transported via loading shovel to designated stock piles prior to dispatch from site; construction of a wheelwash; provision of welfare facilities)
- Phased restoration of the site over its lifetime.

#### 7.3.3. POPULATION AND HUMAN HEALTH

Section 3 of the EIAR deals with Population and Human Health.



The EIAR states that the proposed development will not impact on population levels in the area. Employment levels on the site will be maintained and the development will contribute to the local construction economy.

There are no houses immediately adjoining the site. 9 houses have been identified within 250 m of the site boundaries and a total of 11 within 500 m.

Potential impacts on human health include noise, dust, vibrations etc. These matters have all been addressed within different sections of the EIAR.

The EIAR concludes that there will be no significant effect on the socio-economic and human environment in the vicinity of the site.

Based on the documentation submitted with the Application and the information contained in the EIA I am satisfied with this conclusion.

#### 7.3.4. ROADS AND TRAFFIC SAFETY

A comprehensive traffic and transport assessment has been included in the EIAR. Capacity analysis including the impact of the proposed development on the local road network and the regional road R432, R436 and national road N78 has been provided. I am satisfied that it has been demonstrated that the proposed development can be accommodated on the road network serving the site.

The planning authority sought further information in relation to the provision of improved sightlines at the entrance to the quarry. Based on the applicant's response to this request I am satisfied that adequate sightlines can be provided in order to ensure safe entry and exit at the site access.

#### 7.3.5. BIODIVERSITY

Chapter 4 of the EIAR assesses the impact of the proposed development on Biodiversity. The planning application was also accompanied by a Natura Impact Statement (NIS) -see also Section 7.4 below.

On the basis of the information contained with the EIAR and the Natura Impact Assessment, I am satisfied that the Applicants have adequately addressed the potential impacts on biodiversity and have demonstrated that, subject to mitigation measures contained in the Natura Impact Statement, the proposed development will not impact negatively on biodiversity in the area.

### 7.3.6. SOILS AND GEOLOGY

Chapter 5 of the EIAR addresses soils and geology.

The subsoils on the site consist of glaciofluvial sands and gravel derived from limestone/carboniferous material. Overburden across the site has an average depth of 1.5 to 2 m. Materials to be extracted will be used as a raw material for the construction industry. No geological importance is attributed to the materials to be extracted from the site. Extraction will take place above the water table. As such, there will be no deleterious effects on the underlying bedrock.

I consider that the impact of the proposed development in relation to soils and geology is acceptable.

### 7.3.7. WATER

Chapter 6 of the EIAR addressed hydrological and hydrogeological aspects of the proposed development.

The planning authority requested that the applicant address the concerns of third parties in relation to the fact that a bore hole on site was blocked. This has been adequately addressed in the further information response submitted to the planning authority (construction of an alternative bore hole).

Mitigation in relation to the protection of groundwater mainly centres around the fact that excavation will take place above the water table.

I consider that, subject to the mitigation measures outlined in the EIAR, the impact of the proposed development in terms of Water is acceptable.

### 7.3.8. AIR QUALITY & CLIMATE

As is the case with the operation of any quarry dust will be generated. It is proposed that this will be addressed by means of standard mitigation measures (wheelwash, wetting of site in dry spells, on-going monitoring etc.). Regular maintenance of machinery and not leaving engines running unnecessarily are proposed in order to reduce impacts in terms of vehicle emissions.

I am satisfied that subject to the mitigation measures outlined in the EIAR the proposed development is acceptable in terms of Air Quality and Climate impacts.

### 7.3.9. NOISE

The EAIR provides details of baseline and projected noise levels.

The methodology used in the compiling of baseline data was queried by the planning authority in a request for further information. The further information submitted by the Applicant robustly defended the veracity of the baseline data.

I am satisfied on the basis of the data contained in the EAIR and accompanying document including the further information submitted by the Applicant and mitigation measures contained in the EIAR that the proposed development is acceptable in term of noise.

#### 7.3.10. LANDSCAPE

The EIAR is accompanied by a Landscape Assessment and a Visual Impact Assessment. The Applicants have also submitted a plan for the phased restoration of the site following completion of excavation together with proposal for the provision of berms to screen the site during the construction phase.

I am satisfied that subject to the implementation of these mitigation measures and to the satisfactory restoration of the site following the completion of excavation that the proposed development is acceptable.

#### 7.3.11. ARCHAEOLOGY & CULTURAL HERITAGE

The Applicants engaged an Archaeologist to conduct a desk study and a field inspection of the site.

There are no known archaeological features contained within the site boundaries. The Applicant proposes to engage the services of an Archaeologist to regularly monitor excavation within the site.

I am satisfied that subject to satisfactory monitoring of excavation works the proposed development is satisfactory in this regard.

#### 7.3.12. INTERACTIONS

I consider that the EIAR (Chapter 12) satisfactorily addresses the nature of interactions between the various matters discussed above will interact.

### 7.3.13. CONSIDERATION OF ALTERNATIVES

Section 1.7.3 of the EIAR deals with the consideration of alternatives. This briefly, addressed alternatives including a green field site, 'do nothing' and relocating to an alternative existing quarry.

Having regard to the resource based nature of the proposed development which involves an extension to an existing quarry I consider that the matter of consideration of alternatives has been adequately addressed by the applicant.

### 7.3.14. COMPETENT EXPERTS

A description of the team responsible for the preparation of the EIAR and their various qualifications and technical competencies is included in Section 1.6.1 of the EIAR. On the basis of the details provided, I am satisfied that the EAIR has been prepared by competent experts.

### 7.3.15. CONCLUSION

Having regard to the examination of the environmental information contained above, to the EIAR and supplementary information provided by the applicant and the submissions from the appellants (the contents of which I have noted) it is considered that the main significant direct and indirect effects of the proposed development can be adequately mitigated against and are not such as have significant adverse effects on the environment.

## 7.4. **Appropriate Assessment (AA)**

A Natura Impact Statement (NIS) accompanied the application lodged with the planning authority.

The NIS identifies the site as being within the zone of influence of 2 European sites (River Barrow & River Nore SAC (Site Code 002162) and River Nore SPA (Site Code 004233)).

Lisbigney SAC (Site Code 000869) was also examined for the purposes of the NIS and what deemed not to be within the zone of influence in terms of surface water, ground water, or land and air connections or pathways.

The NIS concludes that subject to mitigation measures outlined (waste management plan, use of drip trays and implementation of spill control measures) together with an

EMS plan detailing measures regarding run-off and no excavation below the water table level there will be no significant effects from the proposed development on any European (Natura 2000) site.

I consider it reasonable to conclude on the basis of the information on the 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 and projects would not adversely affect the integrity of the River Barrow & River Nore Special Area of Conservation (SAC) (Site Code 002162), the River Nore Special Protection Area (SPA)(Site Code 004233), or any other European site, in view of the sites Conservation objective.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission for the proposed development be granted for the reasons and considerations and subject to the conditions as set out below.

## **9.0 Reasons and Considerations**

Having regard to established use of the site and adjoining quarry, the planning history of site and adjoining site, the nature, location and extent of the proposed development and to the established character and pattern of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or other amenities of the area, would be acceptable in terms of traffic safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

- (1) The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 19<sup>th</sup>, day of October 2018, except as may

otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interests of clarity

- (2) This permission is for 10 years from the date of this Order. All restoration works shall be completed to the written satisfaction of the planning authority within 12 months of this date or within 12 months of the date of cessation of activities, whichever is the sooner.

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

- (3) The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

- (4) Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the

security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory restoration of the site in the interest of visual amenity.

- (5) The depth of the excavation for sand and gravel shall be no lower than a depth of 3m above the water table.

**Reason:** To protect ground water in the area.

- (6) Water monitoring shall be undertaken bi-annually for each year of operation using the boreholes existing and proposed, as shown in Figure 2 of the response to further information received by the planning authority on 19<sup>th</sup>, October 2018, to measure the ground water levels at the lowest part of the site and to monitor the water levels and measurements of suspended solids. The results of the monitoring shall be detailed in the Annual Environment Statement (AES) to be submitted annually to the Planning Authority and shall be available for inspection as required.

**Reason:** To protect and monitor ground water in the vicinity of the site

- (7) (a) Water quality monitoring shall be undertaken bi-annually for each year of operation using the boreholes existing and proposed, as shown in Figure 2 of the response to further information received on 19<sup>th</sup>, October 2018. The results of the monitoring shall be detailed in the AES submitted annually to the Planning Authority and shall be available for inspection as required. The monitoring programme shall ensure that the existing ensure that the existing ground water sources serving local residents and farms in the vicinity of the site are unaffected by the development. Where water sources within the affected area has been compromised by the development, the developer shall take whatever measures are necessary for the provision of an adequate supply to replace the affected supply.

(b) Surface water sampling points shall be established upstream and downstream of the ephemeral stream discharge into the Moneyclear River in addition to the groundwater boreholes. A baseline sample shall be taken before commencement of works.

**Reason:** To protect and monitor water quality in the vicinity of the site.

- (8) The developer shall ensure that the proposed development does not affect or cause deterioration in water quality, water levels or yields in the domestic wells in the vicinity. IN the event of quarrying activities having an adverse impact on existing private wells in the vicinity the developer shall undertake appropriate remedial measures as agreed with Planning Authority at the developer's expense. In the event

of any disruption in water supplies, the developer shall cease any operations causing such disruption until water supply has been restored or replaced.

**Reason:** In order to protect water supplies in the interest of public health.

- (9) All over ground tanks containing liquids (other than water) shall be contained in a waterproof bunded area, which shall be of sufficient volume to hold 110 per cent of the volume of the tanks within the bund. All water contaminated with hydrocarbons, including stormwater, shall be discharged via a grit trap and three-way oil interceptor with sump to a watercourse. The sump shall be provided with an inspection chamber and shall be installed and operated in accordance with the written requirements of the planning authority.

**Reason:** In order to protect groundwater.

- (10) The developer shall implement measures to reduce environmental risks associated with re-fuelling, greasing, and other activities within the site. Such measures may include, but are not restricted to, the use of spillage mats and catch trays. Such measures shall be subject to the written agreement of the planning authority prior to commencement of quarrying works.

**Reason:** In order to protect groundwater.

- (11) No surface water shall be discharged or allowed to flow from the site or site access road onto any public road or adjoining property during the construction or operation phase phases of the development.

**Reason:** In order to protect groundwater.

- (12) Maintenance of all plant shall be carried out off-site. Emergency repairs of immobilised plant may be carried out on the quarry floor provided that the mechanics use appropriate drip trays and oil catcher tanks to drain hydraulic oil or lubrication systems.

**Reason:** To protect the quality of surface and groundwater.

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

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

- (14) (a) The wheels and undersides of all vehicles transporting aggregate from the site onto the public road shall, prior to the exit of such vehicles onto the public road, be washed in a wheelwashing facility, which shall be located a minimum distance of [30] metres from the public road and shall be constructed to the written satisfaction of the planning authority.



(b) The entrance/access road shall be surfaced using bitumen macadam material or other materials acceptable to the planning authority, between the public road and the wheelwash.

(c) In dry weather conditions, all roads within the site and the active working face shall be sprayed with water at least [three] times a day.

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

(15) Water from the wheel washing facility, washdown areas and dust suppression areas shall be either recycled or fully contained and treated prior to disposal.

**Reason:** To protect the quality of surface and groundwater.

(16) A dedicated servicing and refuelling area shall be provided with an impermeable surface. No servicing or refuelling of vehicles shall occur outside this dedicated area.

**Reason:** In order to prevent pollution and to protect the quality of surface and groundwater.

(17) The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development.

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

(18) (a) Dust levels at the site boundary shall not exceed [350] milligrams per square metre per day averaged over a continuous period of [30] days (Bergerhoff Gauge). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Details to be submitted shall include monitoring locations, commencement date and the frequency of monitoring results, and details of all dust suppression measures.

(b) A monthly survey and monitoring programme of dust and particulate emissions shall be undertaken to provide for compliance with these limits. Details of this programme, including the location of dust monitoring stations, and details of dust suppression measures to be carried out within the [site] [entire quarry complex], shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any quarrying works on the site. This programme shall include an annual review of all dust monitoring data, to be undertaken by a suitably qualified person acceptable to the planning authority. The results of the reviews shall be submitted to the planning authority within two weeks of completion. The developer shall carry out any amendments to the programme required by the planning authority following this annual review.

**Reason:** To control dust emissions arising from the development and in the interest of the amenity of the area.

(19) During the operational phase of the proposed development, the noise level from within the boundaries of the site measured at noise sensitive locations in the vicinity, shall not exceed

(a) an Leq,1h value of 55 dB(A) between 08.00 and 20.00 hours

(b) an Leq, 15 min value of 45 dB(A) at any other time. Night time emissions shall have no tonal component.

**Reason:** In order to protect the [residential] amenities of property in the vicinity.

(20) (a) The developer shall monitor and record groundwater, surface water flow, noise, ground vibration, and dust deposition levels at monitoring and recording stations, the location of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Monitoring results shall be submitted to the planning authority at [monthly] intervals for groundwater, surface water, noise and ground vibration.

(b) On an annual basis, for the lifetime of the facility (within two months of each year end), the developer shall submit to the planning authority five copies of an environmental audit. Independent environmental auditors approved in writing by the planning authority shall carry out this audit. This audit shall be carried out at the expense of the developer and shall be made available for public inspection at the offices of the planning authority and at such other locations as may be agreed in writing with the authority. This report shall contain:

(i) A written record derived from the on-site weighbridge of the quantity of material leaving the site. This quantity shall be specified in tonnes.

(ii) An annual topographical survey carried out by an independent qualified surveyor approved in writing by the planning authority. This survey shall show all areas excavated and restored. On the basis of this a full materials balance shall be provided to the planning authority.

(iii) A record of groundwater levels measured at monthly intervals.

(iv) A written record of all complaints, including actions taken in response to each complaint.

(c) In addition to this annual audit, the developer shall submit quarterly reports with full records of dust monitoring, noise monitoring, surface water quality monitoring,

and groundwater monitoring. Details of such information shall be agreed in writing with the planning authority. Notwithstanding this requirement, all incidents where levels of noise or dust exceed specified levels shall be notified to the planning authority within two working days. Incidents of surface or groundwater pollution or incidents that may result in groundwater pollution, shall be notified to the planning authority without delay.

(d) Following submission of the audit or of such reports, or where such incidents occur, the developer shall comply with any requirements that the planning authority may impose in writing in order to bring the development in compliance with the conditions of this permission.

**Reason:** In the interest of protecting residential amenities and ensuring a sustainable use of non-renewable resources.

(21) Scrap metal and other waste material shall be removed at least [annually] from the site in accordance with the written requirements of the planning authority. Such materials shall be deemed to include scrapped trucks, other scrapped vehicles, empty oil barrels, broken or otherwise unusable truck bodies, worn out conveyor belts/chains, worn out batteries, unusable tyres and worn out conveyor/roller shafts.

**Reason:** To protect the amenities of the area.

(22) Details of road signage, warning the public of the entrance and of proposals for traffic management at the site entrance, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of traffic safety.

(23) (a) Prior to the commencement of any development in accordance with this permission the developer shall carry out improvements to the existing entrance as per details received by the Planning Authority on the 19<sup>th</sup>, day of October 2018. No surface water shall be allowed to flow onto the public road.

(b) Any proposed upgrading and improvement works necessary to the public road network and on-going maintenance and repair shall be carried out by the Planning Authority at the developer's expense.

(c) The proposed development shall not interfere with or compromise existing roadside or land drainage.

**Reason:** In the interests of traffic safety.

(24) Site roads and haul roads shall be maintained to ensure the safe movement of vehicles within the facility. The facility entrance and hardstanding areas shall be appropriately paved and maintained in a fit and clean condition.

**Reason:** In the interests of public health and in order to protect the amenities of the area.

(25) The quarry, and all activities occurring therein, shall only operate between 0700 hours and 1900 hours, Monday to Friday and between 0700 hours and 1430 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays.

**Reason:** In order to protect the amenities of property in the vicinity.

(26) Restoration shall be carried out in accordance with a restoration plan, which shall include full details of existing and proposed finished ground levels, landscaping proposals and a timescale for implementation. This plan shall be prepared by the developer, and shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include provision that one year prior to the expiration of the extraction period, the applicant shall submit, for the written agreement of the planning authority a comprehensive closure and restoration scheme.

**Reason:** To ensure the satisfactory restoration of the site in the interests of visual amenity.

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Paddy Keogh  
Planning Inspector

26<sup>th</sup>, August 2019

