



An
Bord
Pleanála

Inspector's Report QD05.QD0018.

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| Development | Extension to existing Quarry under the Provisions of Section 37L of the Planning and Development Act 2000 (as amended). |
| Location | Glasbolie, Ballintra, County Donegal. |
| Planning Authority | Donegal County Council. |
| Planning Authority Reg. Ref. | Not Applicable |
| Applicant | Patrick McCaffery and Sons. |
| Type of Application | Application under the Provisions of Section 37L of the Planning and Development Act (as amended). |
| Planning Authority Decision | N/A. |
| Observer(s) | (i) Stewart Kirkpatrick, (ii) Pearse O'Gorman, (iii) James Gorman, (iv) Hugh Gorman, (v) Irish Water, (vi) Dorasami Raman. |
| Date of Site Inspection | 8 th November, 2016. |
| Inspector | Paul Caprani. |

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1.0 Introduction

- 1.1. QD05.QD0018 relates to an application under the provisions of Section 37L of the Planning and Development Acts 2000 – 2015 as amended in respect of the further development of an existing quarry at Glasbolie outside the village of Ballintra, South Donegal. The current application, in addition to seeking substitute consent for works already undertaken on adjoining lands (SU05E.SU0128), seeks to develop a further 6.2 hectares of land on lands adjacent to the western boundary of the main quarry. The existing quarry also accommodates a number of processing facilities including a concrete batching plant and an asphalt plant. A number of observations have been submitted objecting to the proposed quarry extension. The Board have yet to determine the substitute consent application at the existing quarry site and the current application under the provisions of Section 37L should be assessed in conjunction with the substitute consent application.

2.0 Site Location and Description

- 2.1. The existing quarry is located in South West Donegal to the west of the N15 between Ballyshannon and Donegal Town and approximately 2.5 to 3 kilometres to the south of the village of Ballintra. The N15 National Primary Route runs approximately 750 metres west of the site. A local road and a local right of way links the quarry directly with the N15. The existing quarry operations comprise of two separate holdings separated by the local road which runs in an east-west direction through the site. Lands to the north of the local road accommodate the north quarry. This quarry is no longer active but comprises of a 4.4 hectare site which has been excavated to a depth of approximately 140 metres below the existing ground level and approximately 50 metres below the existing water table. The entrance to the north quarry is located on its south east corner. The vast majority of the quarry was excavated to a depth of 140 metres below Ordnance Datum. It is only the perimeter area along the boundary of the site and a small section on the north-western portion

of the site which has remained unexcavated. The quarry has been allowed to naturally flood and no pumping of groundwater currently takes place on site.

- 2.2. The main quarry is located to the immediate south. It occupies an area of approximately 6 hectares and accommodates active excavation of limestone through drilling and blasting. The material is processed on site using fixed crushing and screening plant to reduce the rock to aggregate which is sold. Processed aggregate is also used to produce readymix concrete on site. The concrete batching plant is located in the northern area of the main quarry. The applicant also manufactures a range of asphalt products within the main quarry. As a result, raw aggregate and finished product are both transported off site in accordance with market demands.
- 2.3. The lands to the immediate west of the main quarry are the subject of the current proposal before the Board. The land in question is roughly rectangular in shape and is approximately 250 metres in length and 250 in width. It is currently used for the grazing of livestock. The topography of the site is undulating ranging in height from approximately 100 metres OD in the south-eastern corner of the site to approximately 126 metres OD in the north-western corner of the site.
- 2.4. In terms of surrounding settlement, there are no dwellings contiguous to the boundaries of the proposed quarry extension. The nearest dwellinghouses are located on a local road to the north-west of the subject site. I estimate the closest dwellinghouse to be located approximately 200 metres from the north-western boundary of the proposed extension. There are in total five dwellinghouses located between 200 and 350 metres from the north-western boundary of the proposed extension. There are two dwellings located within 300 metres to the south-east of the proposed extension.

3.0 Proposed Development

- 3.1. Planning permission is sought for the extension of the quarry on the subject lands. The development will involve the stripping of overburden on the drilling and blasting of rock for processing in the main quarry. The quarry will be excavated to a depth of 85 metres OD. The excavation will take place in three separate phases. Phase 1 will start in the north-eastern corner of the extension area and will progress southwards. Phase 2 will see the excavation progressively move westwards across the site

towards the western boundary. Phase 3 will involve the extraction of the north-western portion of the site. The public notices indicate that the life of the quarry is proposed for 35 years.

4.0 Application Submission

- 4.1. An application was lodged with An Bord Pleanála under the provisions of Section 37L of the Act of 20th January, 2016. A letter of consent from a landowner of the lands in question was also submitted with the application permitting the applicant to lodge an application on the said lands.
- 4.2. A covering letter states that the applicant is seeking a 35-year permission in order to complete extraction of reserve from the application area. The application was accompanied by the following documentation:
- A signed application form.
 - Newspaper notice and site notice.
 - Details of required drawings at an appropriate scale.
 - An Environmental Impact Statement including non-technical summary.
 - A Natura Impact Statement.
 - A letter of consent from the landowner.
 - A disc containing all the above information.

5.0 Observations

5.1. Observation from Seamus Kirkpatrick

- This observation objects to the proposed extension on the quarry primarily on the grounds that the quarry has constituted a nuisance to adjoining neighbours over the previous four decades. The quarry has damaged the observer's quality of life and also devalued his home and farm. The extension of the quarry will only exacerbate the impact on residential amenity. The observer built his home in the late 1950's and the quarry has destroyed views

of the Sligo, Leitrim and Fermanagh Mountains and also views of the Barnsmore and Bluestack Mountains.

- The applicant has failed to plant native trees on the berm around the north quarry.
- The proposed extension will have a detrimental impact on the landscape. The observation sets out concerns in the way the current quarry is operated and maintained. The operators were asked to submit restoration plans and these were never submitted.
- Notwithstanding the fact that they were refused planning permission by An Bord Pleanála, the applicant proceeded to deepen the north quarry over the subsequent 13 years.
- This extension and the resulting access to new raw material would bring about more noise, heavier traffic and increased dust contamination.
- The observer expresses concerns in relation to the frequency of blasting which he had to endure previously and will have to endure again if the quarry goes ahead. The quarry will be advancing towards the observer's house. This has had an adverse impact on the elderly observer's health and nerves.
- The road through the south quarry is in a deplorable state with quarry vehicles moving in all directions on it. The incorporation of a water sprinkler along this road has made it impossible to walk on the road. It also results in dirt and spoil on cars passing through the quarry.
- The observer is saddened by another generation faced with the dismal prospect of this quarry being expanded and the Board are therefore asked to refuse planning permission.

5.2. **Observation from Pearse O'Gorman**

- This observation notes that the quarry has been operating since the last 1960s without the benefit of planning permission and has resulted in a significant adverse impact on the quality of life for residents in the area.
- It is also contended that the applicants have lodged a parallel application with Donegal County Council for a similar type development on the lands in

question. The residents in the area have been afflicted by more than enough nuisance and trouble over the previous 45 years. In the absence of the quarry for which no planning permission has been secured, the area would have remained a pristine rural area.

- It is stated that the quarry has been reducing its level of production in recent years due to the fact that they have exhausted resources on site. The current application will give them access to vast new reserves which would result in extraction rates increasing and would result in the attendant problems of noise, blasting, dust and traffic. The operators blatant disregard of planning legislation over recent decades should not be overlooked.
- It is noted that the applicant proposes to construct and plant berms around the extension of the quarry with native trees. Any cursory examination of the landscape would indicate that this is not in keeping with the native character of the site.
- It is argued that many cracks have appeared in the observer's home over the years and this is attributed to blasting.
- Reference is made to the blasting and excavation which occurred in the north quarry which showed a blatant disregard to any restoration plan and any health and safety considerations.
- It suggests that the EIS submitted contains incomplete and inaccurate information in relation to flora and fauna.
- The statement in the EIS that quarrying activity has not deterred people from living in the area is disputed by the observer. It is suggested that many more people would live in the wider vicinity where it not for the operation of the quarry. It is also stated that people moved out of the area due to the quarry.
- Dust pollution continues to be a significant and contentious problem. Photographs are submitted illustrating this point. Concerns are expressed in relation to the location of the dust monitors in that they leave huge gaps in the perimeter for the measurement of dust pollution. It is suggested that the results presented in Table 8.3 of the EIS are in no way credible.

- It is also stated that odours from the asphalt plant are of a particular concern to the observer.
- In terms of hydrogeology and water pollution it is stated that Lough Gorman is a source of public water supply for hundreds of homes in the district yet a proper risk assessment has not been carried out in relation to the impact of the proposal on water supplies in the area. It is suggested that oil has seeped from the quarry in the observer's farmland (photographs are attached indicating this).
- The quarry has, been and continues to be, a major eyesore in the locality. The extension will be on elevated rising ground which will be a very visible feature within the landscape.
- In terms of traffic the applicant fails to address the levels of traffic in and out of the quarry along a minor road. Traffic constitutes a constant cause of damage to stone ditches along the roadways. The damage to stone walls has resulted in cattle escaping from fields onto the nearby N15.

5.3. **Observation from James Gorman**

A submission on behalf of the above observer was made by McCarthy Kelville O'Sullivan Consultants. It contains a written report and three appendices. The first section of the report sets out the introduction while a second part of the report sets out the development context which outlines the history of quarrying on the subject site together with the various applications in relation to quarry registration, and substitute consent etc.

- In relation to the nature of the current application it is argued that the revised remedial EIS submitted on foot of the Board direction of 29th June, 2015 is defective in that the red line boundary of the pending substitute consent application includes only the northern quarry area and entirely omits the southern quarry area. Given that the pending substitute consent application is defective, the Board in the observers view, should not and cannot consider an application under Section 37L to further develop the southern quarry area. As the main quarry area has not been the subject of any substitute consent planning application the provisions of Section 37L cannot apply.

- In terms of residential amenity issues it is stated that the observer's family's home is located within 250 metres for the existing quarry and their farmholding borders the quarry to the south. While it is acknowledged that quarries are necessary, and not best neighbours, it is imperative that such operation should be managed in a manner which respects both property rights and amenity and enjoyment of those who live in the vicinity. This is not the case in the current quarry. The manner in which the existing quarry has operated and the lack of regard for neighbours has been unacceptable for many years.
- Reference is made to a report prepared by KT Cullen and Company in 2000 which identifies impacts arising from the operations on site in terms of noise, dust, emissions to air, visual impact, waste disposal and flooding on adjoining lands. The report also raises concerns in relation to groundwater contamination and interference with a public right of way which is effectively being commandeered as part of the quarry operation.
- Hydrogeological impacts are also highlighted having regard to the quarry's location within a karst limestone area in close proximity to a source of public water supply. The base of the north quarry is well below the level of Lough Gorman and more comprehensive hydrological assessment is required in the Environmental Impact Statement.
- In conclusion therefore it is argued that the proposed extension would have an unacceptable impact on residential amenity and that the subject application should not be considered under the provisions Section 37L and should be deemed invalid.
- Appendix 1 of the submission contains a letter of objection from James Gorman. It sets out the history of the quarry including the lands which were required as part of the quarry extension. It also sets out the impact of the quarry on residential amenity. Numerous photographs are attached indicating the size and scale of quarry works, which it is argued, has an unacceptable environmental impact on the surrounding area. The applicant has carried out numerous works without the benefit of planning permission including an creation of an unauthorised lorry park. It is also argued that the settlement

lagoon in the southern part of the quarry is not lined and acts as a point source of infiltration to groundwater.

- The submission also includes a review of the environmental impact statement and many of the perceived inaccuracies and inconclusive statements are set out in the submission. The submission also suggests that the proposed development could have an unacceptable impact on Durnesh Lake SAC and SPA.
- It is also argued that the proposed extension would have an unacceptable impact on the visual amenities of the area and would also have an unacceptable impact in terms of traffic.
- The submission states that the operators continue to excavate in the southern quarry to depths to 70 metres OD. This quarrying recommenced in October 2015. This work requires an environmental impact assessment and an appropriate assessment and An Bord Pleanála cannot grant planning permission for an extension where there is unauthorised development on the site. The submission makes reference to the refusal by An Bord Pleanála for a proposed quarry extension under Reg. Ref. PL05.131103 and finally sets out a list of seven reasons for refusal which the Board should consider in determining the current application.
- Appendix 2 sets out a hydrogeological report/assessment. It argues that the hydrogeological section and related appendices fail to adequately address the karstified nature of the Ballyshannon limestone formation in the study area and the risk of potential impacts of the proposal on Lough Gorman.
- Appendix 3 contains the original report prepared by Kevin Cullen. This report outlines concerns in respect of the quarry operations which have been undertaken particularly in terms of dust and air emissions, noise, visual impact, flooding and soil contamination and groundwater. Reference is also made to other general nuisances in relation to safety, damage to property arising from blasting and vibration.

5.4. Observation from Hugh Gorman

This observer currently lives in New Zealand. It states that he is the owner of a property that lies immediately east of the N15 directly across from McCaffrey's Quarry.

- The observer wishes to lodge an objection to the proposed development on grounds of impact on visual amenity and noise and dust generated from the proposed development.
- It is argued that this has resulted in land values being severely diminished in the vicinity of the quarry and has resulted in no new families settling in the area. The current site for the main quarry has always been unsuitable as it is criss-crossed by local roads and the original road which traversed the site is now unrecognisable and too dangerous for children and adults to walk on foot.
- Finally, it is stated that just because the quarry is currently in operation this does not imply any right to a grant of planning permission. It is the applicant's wish to renovate his farmhouse and reside in it one day. However, this will not occur while the quarry is in operation.

6.0 Planning Authority's Report Under the provisions of Section 37L(12)(a).

- This report sets out the overview of the quarry in terms of its location, the current operator and the nature of operations which are undertaken (this information is already contained in the current report and also in the previous report in respect of Reg. Ref. 05E.SU0128). The report also sets out the planning history in respect of the development. In this regard reference is made to Reg. Ref. 01/106 (An Bord Pleanála Ref. PL05E.131130). Reference is made to two further applications which were made to Donegal County Council in 2007. Under both applications the Planning Authority requested an EIS and as no EIS was submitted no decision was made in respect of the application.

- Section 2 of the report sets out the relevant Development Plan policy framework. Details of each of the chapters of the Development Plan as they relate to the proposed quarry operations are set out in the report.
- The final section of the report relates to consideration as to whether or not further development should be permitted. It states that the Planning Authority has no objection in principle to An Bord Pleanála approving the current application for further development subject to conditions set out in the report in addition to the mitigation measures set out in both the EIS and NIS submitted with the application. In total 14 conditions are listed in the report.

6.1. Submission from Irish Water

On the 15th March, 2015 a report from Irish Water notes that there are supply sources in the area at Lough Gorman and Lough Columcille both of which are located in close proximity to the subject site. It is noted that there is also a 50 millimetre HDPE public watermain located approximately 200 metres west of the site. Irish Water request that An Bord Pleanála seek that mitigations measures are put in place by the applicant in order to ensure that both water supply sources and the watermain are protected from any potential damage as a result of the quarry related activities.

6.2. Submission on behalf of the Applicant

A submission on behalf of the applicant dated 18th April, 2016 was submitted by Earth Science Partnership Limited. It specifically relates to Donegal County Council's submission in respect of the 37L application. The applicant welcomes Donegal County Council's recommendation to approve the subject application subject to conditions but makes the following specific comments in relation to a number of conditions attached.

In relation to Condition No. 3 which relates to visibility splays along the minor country road L-7265-2, it states that this runs along the northern boundary of the application site and the existing south quarry. No material from the application site would be transported along this route as all material will be transported via haul roads within the curtilage of the quarry lands.

In relation to Condition No. 6 which relates to noise levels states that a limit of 50 dB(A) is too stringent and this should be increased to 55 dB(A) in accordance with EPA Environmental Management Guidelines.

6.3. **Observation from Ramu Dorasami**

This submission relates to the sale of the observer's dwellinghouse. It was stated that a price was agreed of €340,000 in August, 2014 which the observer accepted. However, the potential purchasers following research found that there was an application to extend the quarry much too close to the observer's house and hence the offer was withdrawn. A similar scenario occurred in November, 2015. It is stated that for two years now the house in question was deemed to be unsaleable because of the open application to extend the quarry in close proximity to the appellant's property. The submission requests that the Board advise the observer as soon as possible with regard to determination of the application. The indecision is having significant financial and health impacts on the observer.

7.0 **Development Plan Provision**

PLANNING POLICY CONTEXT

8.1 Development Plan

The quarry in question is governed by the policies and provisions contained in the County Donegal Development Plan 2012-2018.

Chapter 7 of the Development Plan specifically relates to the extractive industry.

The objectives in relation to the extractive industry are as follows:

"To conserve and protect the environment including in particular the archaeological and natural heritage in conservation and protection of European designated sites and any other sites which are prescribed"

"To preserve the character of the landscape where and to the extent that, the proper planning and sustainable development of the area requires it including

the preservation of views and prospects, cultural features and the amenities of places and features of natural beauty or interest”.

“To identify those sites with the highest mineral/aggregate extractive potential within the life of the plan, and which do not reside within high amenity areas or adversely impact on environmental designations”.

“To protect and preserve quality of the environment including the prevention limitation, elimination, abatement or reduction or environment pollution and the protection of waters, groundwater, the seashore and the atmosphere”.

In terms of policies the following policies are relevant.

EX-P-1: *It is the policy of the Council not to normally permit new extractive industry proposals in area of especially high scenic amenity or why they would adversely impact upon any Natura 2000 site, Natural Heritage Area, nature reserve, groundwater protection area, freshwater pearl mussel catchment or other areas of importance for the protection of flora and fauna or areas of significant archaeological potential, unless it can be clearly demonstrated that such extractive industries would not have significant adverse impacts on the amenities or the environment, and comply with Article 6 of the Habitats Directive.*

All extractive industry proposals in designated freshwater pearl mussel catchments will be subject to a Habitats Directive Assessment and will comply with the objectives and practices set out in the relevant freshwater pearl mussel sub-basement management plan and any relevant codes of practice.

EX-P-2: *It is the policy of the Council not to permit development proposals for quarry and ancillary facilities unless it has been evidenced that the development shall not result in a significant threat of pollution to the environment including siltation and sedimentation of receiving downstream surface waters, having regard to vulnerabilities identified in the river basin management plan and any relevant freshwater pearl mussel sub-basement plan and to ensure that extractive industry proposals do not adversely impact upon the environment including surface water and groundwater aquifers, quality and quantity, river corridors, associated wetlands and River Basin Management Districts.*

EX-P-3: *It is the policy of the Council to require all applications for extractive industry proposals to be accompanied by an integrated phased development and restoration plan for aftercare/reuse of the site. Any restoration plan must comply with Article 6 of the Habitats Directive having regard to the relevant conservation objectives, qualifying interests and threats to the integrity of a*

Natura 2000 site. Restoration Plans should comply with policies set out in EX-P-1 and EX-P-2 and Objectives EX-O-1 and EX-O-2 and EX-O-4.

EX-P-4: *It is the policy of the Council to require that, where an extractive industry development is proposed within 300 metres of a recorded monument/archaeological site or is likely to have a material impact on the visual amenities of the monument/site, the applicants and operators shall engage the services of an archaeologist or suitably qualified person to undertake an archaeological assessment of the site.*

EX-P-5: *It is the policy of the Council to require that development proposals are accompanied by evidence of the suitability of the road network in terms of width, alignment and carrying capacity to require that any identified deficiencies can be addressed at the applicant's expense. Any mitigation works required to upgrade or align the road infrastructure must comply with Article 6 of the Habitats Directive.*

8.2 Quarries and Ancillary Activities Guidelines for Planning Authorities, DoECLG 2004

This document provides guidance to planning authorities on determining applications for planning permission for quarrying and ancillary activities. It notes the economic importance of quarries and envisages a sustained level of demand for aggregates to facilitate the provision of the infrastructure required to support continuing economic and social development and to maintain Ireland's international competitiveness as a location for attracting inward foreign investment in the manufacturing and services sectors. Aggregates can only be worked where they occur and it is generally neither economically nor environmentally sustainable to transport them at any great distance to their market due to increased transport costs. Many pits and quarries tend to be located within 25 km of urban areas where most construction occurs. There will be a continuing need for some new and expanded aggregate quarrying operations on land to meet regional and local requirements.

Potential environmental impacts associated with quarries include noise, vibration, dust, effects on the amount and quality of water, lowering of the water table, effects on the natural heritage, the cultural heritage, landscape, traffic and waste materials. The following sections of the Guidelines are particularly relevant to this case:

- 3.3 Dust deposition/air quality
- 3.4 Water supplies and groundwater
- 3.5 Natural heritage

- 3.9 Waste management
- 3.10 Environmental Management Systems (EMS)
- 4.7 Possible planning conditions

8.0 Assessment

- 8.1. I have read the entire contents of the file including the EIS and NIS submitted with the application and have had particular regard to the issues raised in the observations submitted in respect of the applicant lodged under the provisions of Section 37L of the Act. The Board will note from the conclusions and recommendations in the accompanying substitute consent file, SU05E.SU0128 that a recommendation to refuse substitute consent was issued on the basis that the historical works undertaken on site were deemed to have an unacceptable environmental impact on the surrounding environment and residents in the vicinity primarily through excessive noise and dust generation and also because of the size and scale of the works undertaken on site including structures, plant and machinery and it was concluded that this has had an unacceptable visual impact on the surrounding environment. I further note that the Board have yet to make a decision on the substitute consent application. If the Board accept the recommendation set out in my report, it must in my view, refuse planning permission for the proposed extension as it constitutes an extension to an unauthorised development.
- 8.2. If the Board does not agree with the above recommendation, and considers the application for substitute consent to be acceptable and in accordance with the proper planning and sustainable development of the area, it is proposed to briefly evaluate the application before it so as to assist the Board as to whether or not the proposed extension in itself would be acceptable in the context of the proper planning and sustainable development of the area.
- 8.3. The first issue the Board should note is that all material which is to be extracted from the proposed quarry extension will be processed and some of it will be used in the manufacture of products within the main quarry area which already exists on site. It is this processing and manufacturing of material which has in my view given rise to what I consider to be unacceptable impacts on the receiving environment particularly in relation to noise and dust generation. This in itself is an important and material

consideration in determining the application for the extension before the Board. The Board will be required to assess the cumulative impacts arising from the extraction together with the continued processing and manufacture of materials within the overall quarry. It is possible therefore that while the Board may consider the proposed extension to be acceptable in itself, it may come to a different conclusion in respect of the continued processing and manufacturing of products in the main quarry area resulting from the extraction of aggregate in the extended area.

8.4. Impact on Human Beings

The EIS assesses the impact on human beings and acknowledges that a number of neighbours in the vicinity have made complaints in respect of these on-going works. It is pointed out however that the existing operations employ 50 persons.

Having inspected the site, I note that the proposed quarry extension will progress excavations in a westerly direction closer to a number of dwellinghouses to the west and north-west of the subject site which have objected to the existing quarry operations. The separation distances of between 250 and 350 metres may be acceptable subject to the incorporation of appropriate mitigation measures being employed to ensure that residential amenities are protected. It is noted that one dwelling to the south of the subject site is located c.100 metres from the south-western corner of the proposed quarry extension and this may experience an adverse impact on amenity particularly through noise and dust generation. It is difficult to ascertain the potential impact arising from the extension as detailed predictive modelling in respect of noise and dust have not been undertaken as part of the main EIS. This issue is elaborated in more detail below in my assessment.

8.5. Flora and Fauna

In terms of flora and fauna, the EIS details the receiving environment. These lands are considered to be of low value ecological. Furthermore, the on site assessment has included that the receiving environment is deemed to be of significant value for particular species of birds or terrestrial fauna. The removal of these habitats would therefore be environmentally acceptable in my view and thus would not give rise to any significant or unacceptable environmental impacts.

8.6. **Water and Groundwater Issues**

In terms of hydrology and hydrogeology, I note the observations on file and in particular the concerns in relation to the impact on the quarry operations on local water supply schemes centred on Lough Gorman to the south-east of the site. The Board will note however that these concerns primarily relate to the historical operations on site where significant pumping of groundwater occurred in the north quarry. The current application before the Board seeks to excavate lands to the west of the existing quarry to levels of 85 metres AOD. This is significantly above the encountered groundwater levels of 50 metres AOD in the north quarry. Based on the existing evidence therefore it is highly improbable that the water table will be breached as a result of the proposed excavations and therefore largescale pumping of groundwater will not be required as part of the excavation works proposed. It can be anticipated with a reasonable degree of certainty therefore that there will be no consequential drawdown on the water table impacting on water supplies in the area. I am therefore satisfied that the proposed excavation will have a negligible impact on the groundwater regime of water supplies in the area.

8.7. In relation to hydrology I refer the Board to the submission from Irish Water contained on file. It states that there is a 50 millimetre HDPE public watermain approximately 200 metres to the west of the site. It is not altogether clear whether the pipe is located 200 metres to the west of the existing quarry or 200 metres to the west of the proposed extended quarry. In the event that the Board are considering granting planning permission for the proposal I recommend that further information be sought in respect of the exact location and alignment of the water supply pipe prior to determining the application.

8.8. **Air Quality and Noise**

I note that the EIS submitted with the current application states that dust deposition could be a cause for concern as a result of the quarrying activities undertaken. While the EIS correctly identifies that cumulative impacts could arise from dust in the case of excavation and processing activities, it fails to adequately quantify or predict dust generation for the purposes of environmental assessment. The EIS merely suggests that “the closest residential dwelling to the processing area is approximately 260 metres to the south of the processing plant” and “it is unlikely that there has been

any impact on air quality in the past and this is anticipated to be the case going forward". Table 8.3 of the EIS has indicated that there has been exceedance of air quality limits on occasions in the past. Furthermore, I have argued in my assessment in the case of SU0128, that dust monitoring points were inappropriately located around the perimeter of the site to ascertain the true extent of dust deposition and furthermore that historically dust deposition appears to have been a significant issue in assessing a previous application for development on site (PL05.131103).

Furthermore, dust and sediment laden surface water discharge from the site onto surrounding roads was very much apparent in my two previous site inspections. Dust generation appears to be primarily attributed to the processing and manufacturing activities undertaken on site. Were the Board to grant planning permission for the proposed extension of the quarry, these issues would remain in my opinion and therefore would have an unacceptable impact on the receiving environment.

8.9. A similar conclusion can be reached in respect of noise. While baseline noise surveys were carried out in respect of the historical and more recent activities on site, I consider that these surveys are likely to have underestimated ambient noise levels in the baseline environment. I base this conclusion on the assessment set out in my report under SU0128. In summary I consider that:

- (a) Ambient and background noise levels may have been underestimated based on my own informal noise surveys carried out around the boundary of the site.
- (b) The noise levels should have been assessed in accordance with the community rating methodology set out in BS4142 which in my opinion would have led to a conclusion that the noise levels generated by the quarry far exceeded ambient noise levels for a rural area and therefore would have been likely to give rise to community complaints.
- (c) The noise assessment undertaken did not incorporate any penalty rating for tonal and impulsive noise which would have been generated from the activities on the quarry.

I further note that while the current EIS acknowledges that cumulative impacts may arise as a result of the excavation of new aggregate in conjunction with the processing of materials on site, no qualitative or quantitative assessment has been carried out in the form of a modelling exercise to attempt to ascertain the noise

impacts arising from cumulative activities. I cannot be satisfied that the proposed excavations in conjunction with the existing processing activities will not result in a significant adverse impact on the surrounding environment as a result of noise generation.

8.10. Traffic and Transport

In relation to traffic and transport, Section 10 of the EIS specifically deals with this issue. The EIS however does not indicate the volumes of material to be extracted and processed on site either overall or perhaps more importantly on an annual basis. If the Board conclude that future volumes of material to be extracted and processed on site equate to those as volumes historically (i.e. between 150,000 and 250,000 tonnes per year) then it would be appropriate to conclude, based on the traffic figures contained in the EIS, that the future extraction and operation of the quarry would not have a significant impact in terms of traffic having regard to the quarry's close proximity to a national primary route. However, the Board should note that there are no details in the current EIS as to future production levels associated with the quarry and as such traffic volumes could be significantly above the figures contained in the EIS.

8.11. Visual Impact

I have argued in my previous assessment in respect of SU0128 that the visual impact arising from works already undertaken on site is unacceptable. The proposed extension will exacerbate the visual impact albeit to a lesser extent due to the fact that the extended area is located further away from the N15 and it is not proposed to accommodate any plant, buildings or processing machinery within the extended area. The incorporation of berms are proposed as a mitigation measure in the EIS. While these measures may screen views from particular vantage points in the surrounding area it will, as in the case of the north quarry, restrict wider panoramic views of the countryside for residents living in the surrounding area particularly those residents to the west of the site. There are no photomontages contained in the EIS which would aid the Board in assessing the visual impact arising from the proposed development. What is proposed in this instance is the extraction of 6.2 hectares of land thus the visual impact particularly in combination with the existing quarrying activities on site could be significant. However, on balance I do not consider that

visual impact in the case of the proposed extension in itself would constitute reasonable grounds for refusal.

8.12. **Archaeology**

Finally, in terms of archaeology, I have no reason to doubt the veracity of the conclusions reached in the EIS that there will be no direct or indirect impacts on any known items of cultural heritage, archaeology or buildings of heritage interest in the vicinity of the application area.

9.0 **EIS Assessment**

- 9.1. As already referred to in my assessment above, I consider that the EIS has a number of shortcomings particularly in relation to quantifying, predicting and assessing the environmental impact on the receiving environment.
- 9.2. Firstly, I note that the EIS does not adequately quantify the volume of material to be extracted from the quarry on a year by year basis. As a result, it is impossible to ascertain how much material is to be processed on site at any given time. As a consequence of this it is impossible to determine how much noise, dust and traffic will be generated as a result of the proposed development. In the absence of such detailed information it is in my view problematic in carrying out a proper detailed robust and comprehensive environmental assessment.
- 9.3. Secondly, I consider the cumulative impact arising from the existing development and the proposed excavation were not adequately assessed in the document submitted. While the EIS acknowledges that there will be cumulative arising from the existing and proposed operations on site these impacts were in no way quantified and this in my view is a particularly pertinent issue in relation to noise. I have argued in my assessment in respect of SU0128 that there is a strong likelihood that noise levels associated with the historic operations of the quarry were most likely underestimated. The existing processing of materials together with the proposed excavation is very likely to give rise to a higher cumulative impact in terms of noise levels. The potential noise impact should have been the subject of a detailed noise evaluation including a modelling assessment with appropriate prediction techniques to enable the Board to adequately quantify the likely noise impacts arising from the

activities to be undertaken on site. A similar detailed and robust assessment in relation to likely dust deposition should also have been undertaken in the environmental impact assessment.

- 9.4. In conclusion therefore I consider that the EIS has not adequately described the overall development in terms of the quantity and volume of aggregate to be produced within the quarry area on an annual basis and the consequential impacts that this may have for the processing and manufacturing activities to be carried out on the main quarry area. While the EIS may have adequately identified the potential impacts arising from the proposed development it failed to evaluate in a quantitative, objective and predictive manner the likely environmental impact arising from the quarry development particularly in relation to noise, dust and traffic. The Board will be aware that in the case of quarries, it is issues in relation to noise, dust and traffic that give greatest cause for environmental concern.

10.0 **Appropriate Assessment**

- 10.1.1. An NIS was submitted with the application. The NIS identifies 12 Natura 2000 sites within 12.3 kilometres of the study area. The NIS reasonably in my view initially screens out most of these European sites due to the distance separating the quarry from the subject sites and the fact that there is no source – pathway – receptor connections.
- 10.1.2. Only Lough Durnish SAC and SPA was screened in as there is a potential hydrological path between the site and the European site in the form of the Ballymagrorty River.
- 10.1.3. Durnesh Lough comprises of a large sedimentary lagoon which is separated from the sea by a barrier composed partly of drumlins, partly of sand dunes with the remains of a cobble barrier occurring in places. Water is connected to the sea by an artificial channel and pipe running under the sand dunes. The qualifying interests include coastal lagoons and molinia meadows on calcareous peaty or clay silt laden soils. Both of these habitats are priority habitats. The conservation objective is to maintain or restore the favourable conservation condition of these Annex I habitats.

- 10.1.4. Durnesh Lough is also an SPA. The features of interest are the Whooper Swan and the Greenland White Fronted Goose. The conservation objective is to maintain or restore the favourable conservation condition of the bird species.
- 10.1.5. In relation to the Lough Durnesh SAC and SPA, the NIS also reasonably concludes in my opinion that the quarrying works undertaken has not resulted in any direct loss, disturbance or fragmentation to Lough Durnesh SAC or SPA. Discharges from the quarry have been subject to licence which required water sampling to be carried out on a frequent basis. The NIS states that no exceedances have been noted in the water quality samples undertaken and no pollution incidences were detected. Therefore, there have been no direct effects of the quarrying work undertaken on the qualifying interest or the conservation objectives associated with Durnesh Lough SAC and SPA.
- 10.1.6. In terms of indirect effects, it is possible that the feeding grounds for the birds which form qualifying interests associated with the SPA could be affected by changes in water quality. However, it is apparent that water quality was not affected by the discharges from the quarry and as such it is highly unlikely that feeding grounds would have been altered within the Lough.
- 10.1.7. In terms of in-combination effects, there is no evidence to suggest that in-combination effects occurred with other discharges into the stream which forms a hydrological connection between the quarry and Durnesh Lough SAC and SPA. I would fully agree with the conclusions contained in the NIS that the qualifying interests of the European Sites in the vicinity will in no way be adversely affected but the works that have been undertaken on the subject site.
- 10.1.8. In conclusion therefore I consider it reasonable on the basis of the information on file which I consider adequate in order to carry out a Stage 2 Appropriate Assessment that the quarrying operations undertaken on the subject site individually or in combination with other plans or projects has not adversely affected the integrity of the Durnesh Lough SAC (Site Code: 000138) and Durnesh Lough SPA (Site Code: 004145) or any other European site in view of the site's conservation objectives.

11.0 Overall Conclusions and Recommendations

Decision

Arising from my assessment above I consider the Board should refuse planning permission for the proposed extension of the quarry based on the reasons and considerations set out below.

12.0 Reasons and Considerations

1. It is considered that the proposed development constitutes an extension to an unauthorised development which does not have the benefit of planning permission under the provisions of either Section 34 or the benefit of substitute consent under the provisions of Section 177A of the Planning and Development Act, 2000, as amended. The Board is therefore precluded from granting planning permission for the proposed extension to the quarry.
2. The Board considers that the EIS submitted with the application is deficient on the grounds that the document failed to adequately quantify the volume of material to be extracted on site and the consequential impact that this would have on the processing and manufacturing of materials within the main quarrying area. As a result, the Board are unable to adequately predict and quantify the impact of the proposed extension in terms of traffic generation, noise generation and dust generation arising from the proposed extension in isolation and in combination with the existing processing and manufacturing activities on site. It is considered therefore that the proposed development is contrary to the proper planning and sustainable development of the area.

Paul Caprani,
Senior Planning Inspector.

28th November, 2016.

