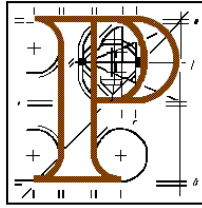


An Bord Pleanála



Inspector's Report

06S. QD0022

Development: Extend quarry and continue works there

Address: Carton, Newport, Mayo

Planning Authority: Mayo County Council

Applicant: Michael Geraghty

Application Type: Permission under Section 37L of the act

Observers:

1. Health Services Executive
2. Inland Fisheries Ireland
3. Newport Environmental Protection Group
4. Charles and Breege Mulchrone
5. Thomas Caine and others
6. Martin and Carol O'Caroll
7. Sean Joyce
8. John Pat and Maureen Sheridan
9. John and Geraldine Cusack
10. Bridget Joyce and others
11. Mary Golden
12. Pat Sammon
13. David Keane

Date of Site Inspection: 5th May 2016

Inspector: Stephen J. O'Sullivan

1.0 INTRODUCTION

1.1 This report deals with an application under 37L of the Planning and Development Act 2000-2015 for permission to reopen and extend a quarry in Mayo.

2.0 SITE

2.1 The site lies in a rural area c5km east of Newport. Access to the site is along a minor loop road on the northern side of the R311 regional road. The minor road is c1km long and serves 5 houses. It varies in width and condition, but it is generally narrow with poor surface. To the south west of the quarry it narrows to c3m. The landscape in the area is undulating. The, and the site is elevated over the land to the south, with a ridgeline along the hills to its north. The applicant's landholding has a stated area of 5.43ha. It is rectangular in shape, extending north by c410m from a frontage of c100m onto the minor road. The landholding includes the existing quarry and the heath behind it. The stated area of the site for this application is 3.97ha. It includes part of the worked area of quarry including the access from the minor road, as well as most of the heath on the landholding to its north. The stated area of the concurrent application for substitute consent covers an area of 3.68ha. The stated area of the ground contained within both application sites is 3.22ha.

3.0 HISTORY

3.1 16. SU0098 – An application for substitute consent in respect of the quarry on the same landholding was made on 20th May 2014. The application was accompanied by a remedial Environmental Impact Statement.

3.2 The quarry referred to in the above application has an extensive planning history which was summarised by the inspector as follows-

- March 2003 – Declaration sought from the planning authority under section 5 of the Planning and Development Act 2000, as amended, that the quarry was exempted development on the basis that it was in existence prior to the appointed day (1st October 1964). The planning authority's declaration (April 2003) stated that the development was not exempted development due to the nature, scale and extent of quarrying, particularly since August 2001, which was such that a material change of use has occurred (**PA ref. 03/602**).
- June 2003 – Owner operator sought a declaration from the planning authority under section 5 of the Planning and Development Act 2000, as amended that the quarry was exempted development for the reasons stated above. The planning authority's declaration (July 2003) stated that the development was not exempt development for the same reasons stated above (**PA Ref. 03/1297**).

- July 2003 - Owner/operator applied to the Board for a review of the planning authority's declaration (PA Ref. 03/1297). Having regard to sections 2, 3 and 24 of the Local Government (Planning and Development) Act 1963 and the submissions made by the parties the Board concluded (November 2003) that:
 - The use of part of the land for quarrying had commenced prior to the appointed day (1st October 1964) and was not abandoned since that date,
 - Since the appointed day there had not been a significant intensification of quarrying use of the land, and
 - The use of land as an extension to the existing quarry does not constitute a material change of use of the land within the scope of section 3 of the 1963 Act,
 - The quarry at Cartron was, therefore, exempted development (**16.RL.2081**).

- December 2004 – The owner/operator of the quarry registered same (PA ref. **QY1**) with Mayo County Council under Section 261 of the Planning and Development Act 2000 (as amended).

- August 2005 – Planning authority advised the owner/operator that they proposed to require an application for planning permission to be made with an EIS in respect of the quarry at Cartron.

- May 2006 – Planning authority advised the owner/operator that they would be imposing conditions on the current extent of the quarry and that any extension into an undeveloped area would require planning permission.

- June 2006 – Following enforcement action taken by the planning authority, the High Court found the quarry to be unauthorised (reference no. **2005 No. 67 MCA**). The High Court decision was appealed by the owner/operator to the Supreme Court (but this appeal was subsequently withdrawn). The proceedings were taken on the basis that following the board's determination under 16.RL.2081, the rate of extraction had accelerated dramatically, the nature of the excavation had substantially altered from that described by the applicant, the depth of excavation had increased substantially and the residential amenity of dwellings in the vicinity had been severely affected as a result of that intensification.

- December 2006 – Planning authority advised the owner/operator that as the quarry was deemed unauthorised the planning authority was not in a position to consider any further the application for registration.

- June 2008 – Owner/operator sought a formal declaration from the planning authority under section 5 of the Planning and Development Act 2000 (as amended) to establish if there was a requirement for planning permission at the (then) existing quarry at Cartron (**PA ref. 08/1104**). Planning

authority advised the owner/operator that they were precluded from considering the application for a declaration, due to the decision of the High Court and appeal with the Supreme Court.

- April 2009 – Owner/operator applied for planning permission for the extraction and processing of rock on a site of 3.94ha at Cartron (**PA ref. 09/318**). Application was deemed incomplete by the planning authority and invalidated.
- May 2009 – The owner/operator sought an exemption from the Board to prepare an EIS under section 172(3)(a) of the Planning and Development Act 2000, as amended. In December 2010 the Board decided to refuse the request for the exemption on the grounds that having regard to the nature and location of the quarry development, depth of excavation and likely effects on the environment, the Board was not satisfied that exceptional circumstances existed which warranted an exemption from the requirement to prepare and EIS (**16.EA.2003**).
- August 2012 – Having carried out a review of quarries in their operational area, the planning authority directed the quarry owner under Section 261A(3)(a) to apply to the Board for substitute consent, with a remedial EIS and remedial NIS. In their notice, the planning authority determined that development was carried out that would have required both an EIA and an AA and that same was not carried out. The notice also states that the planning authority decided that the quarry either commenced operation before 1 October 1964 or permission was granted in respect of the quarry under the Planning Acts. Under ‘Reasons’ the notice states that the requirements in relation to registration were not fulfilled (**PA Ref. QY1/CQ1**).
- March 2013 – Owner/operator sought a review of the planning authority’s determination under Section 261A(3)(a). In November the Board considered that development was carried out which would have required environmental impact assessment, but not appropriate assessment (**16.QV.0224**). On foot of their determination, the Board directed the owner/operator to apply to the Board for substitute consent, accompanied by a remedial EIS. The Board did not review the decision of the planning authority under the same notice as the applicant did not request this.

4.0 PROPOSAL

- 4.1 It is proposed to extend the quarry into the fields to the north, and to continue extraction within the extended area to a depth of up to 15m below the natural surface level. Further details of the proposed works were submitted 18th March 2016 in response to a request from the board. They indicated that the access road would be tar sprayed and potholes filled as the first phase of works, after which facilities including the surface water discharge system would be installed

on the site. After this overburden would be stripped; drilling and blasting would occur; the crusher/screener would be moved to the resulting quarry face; the resulting stone would be graded, piled, then loaded onto trucks to be removed from the site. A self imposed one-way system would improve access. The site area is stated as 2.97ha and the extraction area as 1.26ha.

5.0 POLICY

- 5.1. The Mayo County Development Plan 2014-2020 applies. Objective EI-01 of the plan is to ensure that the development of aggregate resources (stone and sand/gravel deposits) is carried out in a manner which minimises effects on the environment, including the Natura 2000 network, amenities, infrastructure and the community, and has full regard to the principles of sustainability. It is also an objective of the Plan, through the Landscape Appraisal of County Mayo to recognise and facilitate appropriate development that has regard to the character and sensitivity of the landscape and to ensure that development will not have a disproportionate effect on the character of a landscape in terms of its location, design and visual prominence. The quarry site falls within Landscape Protection Area 3 – Uplands, Moors, Heath or Bog. A matrix in the plan states that quarries have a high potential for adverse effects on the landscape in this area.
- 5.2 Volume 2 of the plan recognises that that the location of extractive industries is dictated by the availability of the resource and hence each application will be determined on its own merits.

6.0 SUBMISSIONS

- 6.1 The report from **the planning authority** can be summarised as follows:
- The existing quarry is unauthorised development according to the judgment of the High Court, Record No. 2005/67/MCA. The applicant withdrew his appeal against that decision. Therefore the requirements of section 261A(3)(a) of the planning act have not been fulfilled. The planning authority's order of 17th August 2012 directing the applicant to apply for substitute consent in respect of the existing quarry was an error. Therefore the current application under section 37L of the planning act is invalid because such an application can only be made on foot of a proper substitute consent determination.
 - The present application is invalid because it was not accompanied by an EIS. The board has already determined that an EIS was required for a similar development on the site under 16. EA2003. While a remedial EIS was prepared for the substitute application, the two cannot be conflated. The proposed development in this case is materially different from the

development for which substitute consent is being sought because it involves recommencing blasting and the washing of aggregate.

- The proposed development would be contrary to the county development plan because there is insufficient evidence that it would not have adverse impact on adjoining residential properties and the environment, and because it would cause a traffic hazard due to the inadequate width and alignment of the road.
- There is a possible hydraulic link between the boundary streams around the quarry and the Clew Bay SAC into which they flow.
- The planning authority consider that the application should be refused, so any conditions would be a matter for the board.
- The Environmental Report submitted with the application does not present adequate information to describe the baseline environment or the likely impact of the proposed development. There is ambiguity over the impact of previous quarry activity. Submissions from local residents have been dismissed.
- The 1.5ha of wet heath habitat that would be lost as a result of the development may be inhabited by bird species listed in Annex I of the Birds Directive, including merlin, hen harrier and golden plover. Red grouse and curlew also depend on wet heath. There are no references in the Environmental Report to bird surveys on the matter. The breeding pair of peregrine falcon would be disturbed by the resumption of activity. The report's section on ecology is vague.
- The section of the report dealing with water refers only to a single sampling event. The statement that the quarry floor is largely impermeable is not sufficiently certain to base a conclusion that the proposed development would not threaten the quality of groundwater. An effluent discharge licence would be necessary for the development. The section of the report is fragmented and convoluted. It gives no indication of the volume of water required to wash the aggregate, or of the adequacy of the sediments tanks to cater for its runoff.
- The impact of noise/disturbance on wildlife has not been considered. The effects on blasting on residences in the vicinity cannot be adequately mitigated, as indicated by the reports that previous blasting breached the 125dB air overpressure limit. The consideration of noise is based on inadequate baseline information from a single monitoring point.

- The road to the quarry is not in charge of the council. Its width, alignment and condition are sub-standard. The junction of the road with the R311 is substandard in visibility.
- The site is in landscape policy area 3, according to the development plan. Further quarry development there would have a negative impact on the landscape. Adequate details have not been provided of site restoration works.
- The development would seriously injure the residential amenities of property in the vicinity due to noise and vibration, dust and traffic. These impacts would be localized, long-term and would extend long beyond the time when extraction has ceased.
- The Environmental Report has not adequately addressed the interaction between different elements of the environment.
- A further comment on the details submitted by the applicant on 18th March 2016 re-stated the authority's position that the road to the site and the visibility at its junction with the R311 were inadequate. The five households along this road object to the development and a self imposed one-way system could not be implemented and would cause traffic conflict.

6.2 The submission from the Department of Arts, Heritage and the Gaeltacht can be summarised as follows-

- The site is not near any Natura 2000 site but the board must ensure there is objective information to exclude the possibility of any drainage to the Clew Bay Complex cSAC when screening for appropriate assessment.
- The EIS lacks consideration of cumulative impacts in general and specifically of cumulative impacts from the substitute consent application. The conclusion that the habitat on the site does not correspond to the Annex I habitat of Norther Wet Heath is based on a comparative assessment which is not presented in the environmental report or the rEIS, so the absence of Annex I habitat cannot be presumed. Peregrine falcons nest in the ledges created by past quarrying on the site. It is an offence to disturb them so new activity should not commence between March and August.

- It is unclear from the submitted details whether planting is to occur during restoration of the site.
- 6.3 The submission from **Inland Fisheries Ireland** stated that the site was within the catchment of the Rossow River, which provides habitat for brown trout and flows into the Clew Bay Complex SAC. It recommends measures to protect water quality, including the installation of an oil interceptor, bunding of fuel storage and refuelling areas. A discharge licence would be required before quarrying resumed on the site.
- 6.4 The submission from **An Taisce** states that the eligibility of the site for a section 37L application is unclear, as is the nature and extent of earth movement. There is a need to consider whether sub-threshold EIA considerations apply.
- 6.4 The submission from the Environmental Health Officer of the **Health Services Executive** can be summarised as follows-
- The water supply for the 11 houses within 500m of the site needs to be determined to identify the potential impact upon them. Updated rainfall and flood data are available which should be used in the design of surface water management measures. In particular the effectiveness of the settlement tanks depends on calculations using such data.
 - Site traffic would have a potential impact due to noise, vibration and dust. Mitigation measures need to be considered, including tar spraying the road and a 5mph speed limit. Dust suppression within the quarry would be more important than sweeping the road.

From other persons

- 6.6 The other submissions on the application were from residents of the area who objected to the proposed development on several grounds which can be summarised as follows-
- The quarry on the site has been controversial for a long time. Regard should be had to the similar objections that were made for the concurrent application for substitute consent.
 - The quarry on the site was unauthorised development and it is not registered under section 261 of the planning act. Therefore the current application is invalid.
 - The proposed development, due to its scale and nature and that of the previous development on the site, would be likely to have significant

effects on the environment. The area of the site does not include sufficient land for the parking and turning of vehicles and the stocking of excavated material within the proposed quarry. If that land had been included within the red line, then the site area would have been over the threshold of 5 hectares. The current application is therefore invalid because an EIS was not submitted. Permission could not be granted unless a full EIA was carried out

- The proposed development would be within 1.45km of a Natura 2000 site. An appropriate assessment would therefore have to be carried out before a grant of permission was considered.
- The submitted environmental report is incomplete and inadequate. It fails to provide an accurate description of the baseline environment or the likely effects of the proposed development or of measures to mitigate them, particularly with respect to noise, dust and ground and surface water. It does not give a proper account of the planning and legal history of the site, or of the legislative basis of the application. It was made without adequate technical expertise or consultation with the local community
- The proposed development would give rise to emissions of noise and dust that would seriously injure the amenities of nearby houses.
- The proposed development would involve blasting that would give rise to vibrations that would threaten property in the vicinity.
- The access road to the site is not adequate to cater for the traffic that the proposed development would generate, which would therefore be a hazard to public safety. The road is a private access road and the applicant does not have the legal interest in it to use it to service a quarry. Neither does the applicant or the planning authority have the legal interest in land to improve the road or restrict its use by its owners, who include several of the objectors in this case.
- The proposed development would lead to the runoff of polluted water from the site.
- The site is visible from a wide area, and the proposed development in conjunction with previous works would seriously injure the landscape.
- The development would devalue property in the vicinity.
- Oil interceptors are not proposed for the wheelwash or fuelling area. There is no proposal for a weighbridge. The lagoons are likely to be empty in dry weather when dust suppression would be needed, so the

development would need a public water supply. The stated working hours are inconsistent and too long for a location close to houses.

- Agriculture in the vicinity would be hindered by the emissions of noise and dust from the proposed development, and by the vibrations and the heavy traffic it would generate.
- The notices of the proposed development were inadequate, with no reference to an EIS or NIS, or to the date and name of the newspaper.

Responses

6.7 The **applicant** submitted a response to the planning authority's submission. It can be summarised as follows-

- The inspector in the case QV16. 0224 accepted that the quarry had been used since 1964 and that a valid application for registration under s261 with the necessary information had been submitted. The current application for substitute consent is valid.
- The applicant proposes to continue to excavate from the higher ground on the hill in shelves 10-15m high and not from below 25m below ground level. This would avoid the hydrogeological concerns raised in a previous inspector's report. A comprehensive surface water treatment and discharge system is proposed.
- A remedial EIS was submitted in respect of the works that already happened. The baseline environment described in that statement has not changed subsequently in any significant way. The development proposed in this application is well below the threshold for EIA and an EIS would not be appropriate. An environmental report addresses issues regarding water, noise, air/dust and ecology.
- The proposed level of activity would depend on demand. On average there would be blasting twice a year with an extraction rate of 400 tons or 20 loads per day.
- With respect to residential amenity, the activity on the site would be the same as that granted exempt status by the board in 2003. It has occurred since 1964 before the nearby houses were built. The applicant will abide by such conditions as the board may impose with regard to emissions.
- With regard to traffic, it is accepted that the road to the quarry has not been taken in charge. However it is still a public road. The consulting engineer employed by the applicant brought a fully loaded 20 tonne HGV

to the western access road to demonstrate that the road structure was more than adequate to carry the load. The eastern access road could be brought up to the same standard with the installation of a 4m long drain and the laying of 100 tonnes of gravel. A voluntary one-way traffic route over the eastern access would improve the road surface and continuous maintenance by the quarry operator. If the quarry operator improves the road it would be a positive outcome for the other residents along the eastern access road. Visibility splays at the access to the R311 have been dealt with in previous reports. The visibility to the east is adequate. The required visibility to the west could be provided if the council cut back the verge.

- The baseline ecology of the area was described in the rEIS. The wet heath habitat that would be lost by the proposed development is not equivalent to an Annex I habitat. Wet heath is ubiquitous in west Mayo. Its loss would not be significant. The restoration of the quarry would be likely to generate dry heath habitat that would correlate to the Annex I habitat 'European dry heaths (4030)'. Visits to the site by the ecological consultant and the NPWS ranger did not record the presence of merlin, hen harrier, golden plover or red grouse. The loss of 1.5ha of wet heath would not be likely to have a significant effect on any of those species. Quarrying would create additional nesting opportunities for peregrine falcon.
- The description of the area's hydrology in the rEIS remains accurate. Groundwater is not likely to be a significant resource. A water management system is proposed. It will include a sump and wheel wash, from which water would be transferred to settlement lagoon to remove sediment prior to discharge from the site.
- The development would comply with the limits for noise and vibration recommended in the guidance document issued by the EPA, even though previous blasts in 2004 did slightly exceed the limit of 125dB.
- The quarry does not have a significant effect on the landscape. It was comprehensively assessed in the EIS. It does not interfere with the ridgelines of the surrounding hillside regardless of the location of the viewer. Future development will not have any significant future impact on the landscape when views from the local section of the R311 or the nearby houses. The views that the quarry effects are further south in the vicinity of Drumgoney Lough. The rEIS concluded that the impact from here was minor in magnitude and slight to moderate. The proposed quarry will remain below the ridgeline. The alteration of the views from Drumgoney Lough would not be sufficient to fundamentally change the landscape character or viewpoint composition. The dominant landscape features will remain unchanged.

- The section 261A notice for the quarry was correctly issued and a valid application for substitute consent with an rEIS is before the board. The proposed development is sub-threshold and an EIS is not required for this application. Noise and dust mitigation measures would be put in place. The site is set back from the public road with screening and landscaping and to it would not have a significant or adverse visual impact. A separate surface water discharge licence would be required for the operation. The site is only 200-300m from the R311 and only c20 truck loads per day would arise, so the traffic from the development would not cause congestion and would not give rise to significant effects on the environment as stated by a senior planning inspector. The operation would be controlled by an environmental management system.

7.0 ASSESSMENT

The issues arising in this case can be addressed under the following headings-

- Validity of the application
- Screening for EIA
- Screening for appropriate assessment
- Hydrology and hydrogeology
- Natural heritage
- Residential amenity
- Landscape
- Traffic and access

Validity of the application

- 7.1 This section 37L application was made pursuant to an application for substitute consent, 16. SU0016, that was made following a decision by the board to confirm, in part, a determination by the planning authority under section 261A(2)(a) of the planning act directing the quarry owner to apply for substitute consent. That determination remains valid. It cannot be revoked by the planning authority even if the authority subsequently changed its opinion as to the circumstances of the quarry. As the determination remain valid, so does the application for substitute consent and thus the current application for consent for prospective development under section 37L.

Screening for EIA

- 7.2 The proposed development would involve quarrying over an extraction area of 1.26ha. This is well below the threshold of 5ha for the extraction of stone set in class 2(d) of Part 2 of schedule 5 to the planning regulations. As it would be less than 50% of the threshold at 2(d), it would also be less than the threshold for extensions to development set at Class 13(a) of Part 2 of schedule 5. So

the proposed development would be sub-threshold for the purposes of EIA whether is it considered in itself or as an extension to the prior development which is the subject of the application for substitute consent and the rEIS submitted with it. Schedule 7 to the planning regulations sets the criteria for determining whether such development would be likely to have significant effects on the environment. The characteristics of the proposed development, would not render it likely to have significant effects on the environment due to its size, cumulation with other development including the prior quarrying on the landholding, its use of natural resources, production of wastes, pollution and nuisances or the risk of accidents, given that a relatively small quarry is proposed that would use standard methods of operation. The location of the proposed development would not render it likely to have significant effects on the environment due to the environmental sensitivity of the area likely to be affected, given that it would occupy a rural site that was not designated for the protection of natural heritage or amenity, and which contained a habitat that was widespread. The characteristics of the potential impacts would not render the proposed development likely to have significant effects on the environment, having regard to the magnitude, complexity, probability, duration, frequency and reversibility of any impact and the area and size of the population that might be affected. It can therefore be concluded, following the scheme set out in European and national legislation on environmental impact assessment, that the proposed development would not be likely to have significant effects on the environment. The submission of an EIS is not required.

Screening for appropriate assessment

- 7.3 The site is not in or immediately adjacent to any Natura 2000 site, so the proposed development would not have any direct effect on any such site. The nearest Natura 2000 site is the SAC at Newport River 002144 c1.5km to the northwest. The application site is not within the catchment for the Newport River and there is no potential for any effect upon it from the proposed development. Water from the site drains ultimately to the Clew Bay Complex, where there is an SAC 001482. So there is a potential hydrological link from the proposed development to the latter SAC. The conservation objectives for that site are –

To maintain the favourable conservation condition of the following habitats -

Mudflats and sandflats not covered by seawater at low tide 1140
Coastal Lagoons *(priority habitat) 1150
Large Shallow inlets and bays 1160
Annual Vegetation of drift lines 1210
Perennial vegetation of stony banks 1220

To restore the favourable conservation condition of the following habitats -

Atlantic Salt Meadows 1330

Embryonic shifting dunes 2110

Shifting dunes along the shoreline with *Ammophila arenaria* 2120

To maintain the favourable conservation condition of the follow species -

Common seal 1365

To restore the favourable conservation condition of the following species -

Otter 1355

- 7.4 The SAC and the habitats and species with which its conservation objectives are concerned are marine and littoral, although otters also use freshwater habitats. The hydrological connections from the site to the SAC would be indirect and remote, such that the board declared under 16. QV0224 that the previous quarry on this landholding would not have been likely to have had significant effects on the SAC. The proposed development would be smaller than the previous quarry and would include surface water management measures with settlement ponds and a petrol interceptor which the previous one did not. The likelihood of significant effects on the SAC would therefore be lesser. The temporal distinction between the previous and the proposed quarry would avoid the likelihood of cumulative effects that might be significant for the SAC. It is therefore reasonable to conclude on the basis of the information submitted in relation to this application and previous applications on the site which are adequate to carry out a stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No. 001482 or any European site, in view of the site's conservation objectives.

Hydrology and hydrogeology

- 7.5 The proposed working of the quarry at 15m below surface level would not breach the water table, according to the applicant. This statement is consistent with the conditions observed on site, and with the conclusions of the inspector on the concurrent substitute consent case. It is therefore considered accurate. The elevated situation of the quarry relative to the surrounding land means that it is unlikely to effect the usefulness of any water sources in the vicinity. The main risks to water arising from the quarry are contamination of ground and surface water from increased sedimentation, accidental spills of fuels or lubricants, and the impact of domestic foul effluent from the sanitary facilities for staff. The proposed development includes settlement ponds and a petrol interceptor through which runoff would be diverted before being discharged to the watercourse by the site. This discharge would also be subject to licence from the local authority. A new septic tank and percolation area would be installed to deal with the effluent from the sanitary facilities, the suitability of which is attested to by a site assessment submitted by the applicant that accords with the applicable guidance from the EPA. These are standard

measures to mitigate the impact of quarrying on the quality of waters. Their efficacy is established and they are appropriate to the nature and scale of the proposed works. It is therefore considered that the proposed development would not be cause a deterioration in the quality of surface or ground water.

Natural heritage

- 7.6 The proposed development would extend the quarry into an area of upland heath. The environmental report submitted with the application quotes appendix 4-1 of the rEIS submitted with the concurrent application which provides survey information that indicates that the habitat does not correspond to the Annex I habitat of Northern Atlantic Wet Heath with Erica Tetralix. The absence of this habitat is not simply assumed. The rEIS includes evidence to support that conclusion. The information and technical analysis submitted by applicants in an EIS is an element in the EIA process recognised by EU and national legislation. That information may be questioned and disputed on the basis of countervailing evidence, but it should not be dismissed. The evidence provided in the course of this application and the one for substitute consent is that the proposed development would result in the loss of a relatively small amount of a habitat that is widespread and which is not of high ecological importance. The proposed loss of that habitat would not be part of a wider cumulative loss, as similar works are not ongoing or proposed in the region that would lead to the loss of other parts of the wet heath. The loss of habitat that would result as a result of the proposed development would not be significant in itself, nor would it be likely to have a significant effect on the species that use because so much more wet heath would remain undisturbed in the immediate vicinity of the site. So the proposed development would not threaten the bird species of merlin, hen harrier, golden plover, red grouse or curlew. For the reasons stated in the paragraphs above, the development would not cause a deterioration in quality or ground water or surface water and so would not have a negative effect on habitats or species downstream of the site. Details of the proposed restoration plan can be properly addressed by conditions that might be attached to any grant of permission. It is therefore concluded that the proposed development would not have a negative impact on natural heritage.

Residential amenity

- 7.8 The site is in a rural area away from any concentration of settlement. Nevertheless there are several houses in the immediate vicinity and the impact of the proposed development on their amenities is a relevant factor for this application. Such impacts could arise from emissions of noise and dust and vibrations during blasting, as well as from the impact of traffic. The latter issue is discussed below. The conditions recommended in section 4.7 of the *Guidelines for Planning Authorities on Quarries and Ancillary Activities* issued by the minister in April 2004 set limits for the emissions of noise, vibrations and dust. The proposed quarry would typically involve blasting twice a year and the removal of c400 tonnes of material a day. Given this scale and intensity of

operation, and the location of the site, it is considered that the limits recommended in the guidelines could be achieved if the quarry were competently run. The location and characteristics of the proposed development would not, therefore, represent an undue threat to the residential amenity of property in the vicinity of the site that would justify refusing permission for the proposed development or requiring substantial alterations to it.

Landscape

- 7.9 The site is in an elevated position in drumlin country. The front of the site has a benchmark of c80.5mOD. The ridgeline at the back of the site is at a level of c136mOD. The top of the existing face is 114m, the bottom is shown at 99.6m. The landscape surrounding the site is attractive but is not of the highest sensitivity. The previous quarrying on the landholding has not significantly damaged it because it remains well below the top of the hill and so does not disrupt the visual form of the rolling hills. The proposed development would leave the top of the quarry face at 131.7m and its bottom at 116.7m. This would have a significantly greater impact on the landscape because the resulting void would not be a subservient visual element within the naturally rolling hills. Rather it would appear as if most of one of the hills had been removed, with only a minor separation between the quarry and the ridge of the hill that would not be sufficient to ameliorate its visual impact. The extended quarry would not be readily visible from the regional road near the site, but it would appear in numerous views from the south including those from around Drumgoney Lough. It is considered that the visual impact of the proposed quarry in this context would be unacceptable and would contravene policy LP-01 of the development plan, rendering the site unsuitable for the proposed development.

Traffic and access

- 7.10 The site is close to the regional road R311, which is a main road with a good alignment and which is in good condition. Adequate visibility at the junction of the minor road to the site and the R311 could be provided by cutting back vegetation along the public road and that could be required under a condition attached to a permission. However the minor road is not fit to carry the traffic that would be generated by the proposed development either to the east or west of the site. Its width, alignment, structure and surface condition are all inadequate to carry the 40 movements by HGVs that the development would generate on a typical day. The passing of that heavy traffic would obstruct and threaten other road users, diminishing the residential amenity of the five houses along that road. It would also lead to the deterioration in the condition of the road, further inconveniencing road users. The fact that a single truck could occasionally negotiate the road without mishap, or that the road could cater for the traffic arising from the less intensive quarrying that occurred before 1964, would not alter the conclusion that the site does not have the road access needed for the proposed development. A one way system along the road

would not be practicable to enforce, and would not remedy the hazards anyway. Although a public right of way runs along the minor road, it is not in the charge of the roads authority. So neither the applicant nor the planning authority have the requisite interest in land to improve or maintain the existing road. Such roadworks could not be required under a planning permission, therefore. Providing adequate access for the proposed development would probably require the minor road to be widened, which could not occur with the acquisition of land. The deficiencies in the road serving the site are not capable of remediation under a planning permission, therefore. They render the proposed development contrary to the proper planning and sustainable development of the area.

8.0 RECOMMENDATION

8.1 I recommend that permission be refused for the reasons set out below.

REASONS AND CONSIDERATIONS

1. The road serving the site is deficient in width, alignment, structure and surface condition and is not capable of carrying the traffic that the proposed development would generate, which would therefore endanger public safety by reason of traffic hazard and the obstruction of road users
2. The proposed development would seriously injure the landscape and the scenic amenities of the area in a manner that was contrary to policy LP-01 of the Mayo County Development Plan 2014-2020 and to the proper planning and sustainable development of the area.

Stephen J. O'Sullivan
25th November 2016